THE B.C. HANDBOOK FOR *Action* ON CHILD ABUSE AND NEGLECT

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REPORTING CHILD ABUSE/NEGLECT

Duty to report abuse or suspected abuse

Anyone who has reason to believe that a child has been or is likely to be abused or neglected has a legal duty under the *Child, Family and Community Service Act* to report the matter.

How to report

Report to a child protection social worker in either a Ministry of Children and Family Development office, or a First Nations child welfare agency that provides child protection services.

- Monday to Friday, 8:30 a.m. to 4:30 p.m., call the local district office (listed in the blue pages of your phone book) *or*
- Monday to Friday, 4:30 p.m. to 8:30 a.m. and all day Saturdays, Sundays and statutory holidays, call the Helpline for Children **(310-1234)**. This service is toll-free.

The child protection social worker will:

- determine if the child needs protection;
- contact the police if a criminal investigation is required;
- a coordinate a response with other agencies, if necessary.

If the child is in immediate danger, police should be called to intervene and a child protection social worker should be contacted to determine whether the child is in need of protection.

What to report

The report should include the reporter's name, telephone number and relationship to the child; any immediate concerns about the child's safety; the location of the child; the child's age; information on the situation including all physical and behavioural indicators observed; information about the family, parents and alleged offenders; the nature of the child's disabilities, if any; the name of a key support person; other child(ren) who may be affected; information about other persons or agencies closely involved with the child and/or family; and any other relevant information concerning the child and/or family such as language and culture.

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THE B.C. HANDBOOK FOR *Action* ON CHILD ABUSE AND NEGLECT

2003

Published by:

Ministry of Children and Family Development

Compiled by:

Ministry of Attorney General
Ministry of Children and Family Development
Ministry of Community, Aboriginal and Women's Services
Ministry of Education
Ministry of Health Services
Ministry of Human Resources

The ministries wish to thank the community agencies and organizations which helped to develop the handbook.

To order additional copies of the publication please contact our Customer Service Team at:

Government Publication Services
Ministry of Management Services
PO Box 9452 Stn Prov Govt
Second Floor
563 Superior Street
Victoria BC V8W 9V7

Phone: 250 387-6409
Toll-Free: 1 800 663-6105
Fax: 250 387-1120

Website: www.publications.gov.bc.ca
E-mail: QPPublications@gems5.gov.bc.ca

National Library of Canada Cataloguing in Publication Data
Main entry under title:
The B.C. handbook for action on child abuse and neglect.

Previously issued 1998 by Ministry for Children and Families.
ISBN 0-7726-4973-1

1. Child abuse - British Columbia - Prevention - Handbooks, manuals, etc. 2. Child sexual abuse - British Columbia - Prevention - Handbooks, manuals, etc. 3. Child abuse - Reporting - British Columbia. 4. Abused children - Services for - British Columbia. 5. Child abuse - Law and legislation - British Columbia.
I. British Columbia. Ministry of Attorney General.
II. British Columbia. Ministry of Children and Family Development.

HV6626.54.C3 B74 2003 362.7'68'09711 C2003-960107-2

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PART I – INTRODUCTION

Welcome to the handbook

You should read this handbook in conjunction with existing laws, policies and procedures. That way, you can get more detail and stay current with new laws or policies put in place after this handbook was published.

This handbook is intended for service providers – those who work regularly with children and/or families. It summarizes the key principles, laws and policies dealing with the abuse and neglect of children in B.C. These policies are intended to prevent child abuse and neglect, and to lessen the harm to children and families when they do occur.

Service providers have a special responsibility and are an important part of British Columbia's child protection system – a network of professionals, including child care providers, law enforcement officials, social workers, doctors and other health care providers, educators, mental health workers, child and youth workers, residential care providers, government employees, and volunteers, with the overriding goal of ensuring the safety and well-being of British Columbia's children.

That means working together to prevent child abuse and neglect whenever possible – and, when it happens, reporting it.

Our responsibility to report child abuse and neglect is backed up in law. The *Child, Family and Community Service Act* requires every person who has a reason to believe that a child has been or is likely to be abused or neglected, or may need protection, to promptly report the matter to a child protection social worker.

Under the *Criminal Code*, physical assault, sexual assault and other sexual offences involving children are crimes, as are abandoning a child and failing to provide the necessities of life.

This handbook covers:

- how to recognize abuse and neglect;
- how to respond to a disclosure of abuse or neglect from a child;
- how to report abuse and neglect and intervene;
- how investigations are undertaken, and the possible role of service providers;
- the rules governing the sharing of information among service providers;
- the importance of collaboration among all those working with children and families;

- what services are available to help children and families;
- how to promote child well-being and prevent abuse and neglect; and
- how to advocate for children or make a complaint about service.

The purposes of the handbook

The handbook aims to:

- ensure that efforts in British Columbia to respond to child abuse and neglect are effective, consistent and sensitive to the needs of children;
- promote collaboration among service providers responding to child abuse and neglect;
- ensure that service providers are aware of how they are accountable for their responses to child abuse and neglect;
- provide an overview of the law and the government's policies relating to child abuse and neglect;

This version reflects recent changes that have taken place in the legislation, policy and structure of participating ministries.

It discusses the integrated roles of all involved service providers, and reflects the perspectives of specific ministries. This approach supports collaborative work practices among those who serve children.

Because all elements of the response to child abuse and neglect – from prevention to intervention – are covered here, it is important to read the handbook in its entirety, and not to read sections in isolation from one another. Reading the entire handbook will give you an appreciation of the breadth of action needed to address child abuse and neglect, and the role that collaboration plays in enhancing the delivery of services to children and their families.

General principles

Ensuring the safety and well-being of children requires us to:

- put children's needs first;
- work together; and
- be accountable for our actions.

The following principles offer guidance on how to ensure an effective response. They reflect many of the principles contained in the *United Nations Convention on the Rights of the Child*, the *Child, Family and Community Service Act*, and the policy and legislation of various ministries that serve children and their families.

Responding to the needs of children

- The safety and well-being of children is paramount.
- Children are entitled to protection from abuse, neglect, harm and the threat of harm.
- Interventions to ensure a child's safety should be those that are the most effective in keeping the child safe and the least disruptive to the child.
- While all children are vulnerable, some are more vulnerable than others. Children with disabilities and very young children may not be able to protect themselves, and are particularly dependent on adults for their safety and well-being. Service providers should be especially vigilant in preventing, detecting and intervening in cases of abuse and neglect involving such children.
- Children's need for privacy and confidentiality should be respected. This is particularly important when a child may have been abused or neglected.
- Children should have their views considered and be involved when decisions relating to them are made.
- Children should be provided with prevention information and skills that will help them resist or avoid abuse, when possible, and report abuse or neglect.

The responsibilities and needs of a family

- As long as the child's safety and well-being can be assured, a child's family is the preferred environment for the child's care and upbringing, and the responsibility for the care and protection of the child rests primarily with the parent(s).
- Parents should have their views considered and, wherever possible, participate in working towards the best interests of the child.

- Families and children should be informed of the services available to them and be assisted in obtaining those services.

Service delivery

- Service providers who work with children do so in a position of trust, and their conduct should reflect this trust.
- Services should be planned and provided in ways that are sensitive to the needs and the cultural, racial and religious heritage of those receiving the services.
- All people and agencies providing services for children should work in a collaborative way,
- Services for children should be sensitive to the child's developmental stage, capacity and temperament.
- Communities should participate in the planning and, where possible and appropriate, in the delivery of services to families and children.
- The sharing of information, within the rules governing confidentiality and disclosure of information, is essential for service providers.

The role of aboriginal communities

First Nations, aboriginal and Metis communities have very specific needs and face particular challenges. Children from these communities grow up in a unique social and cultural context. This handbook recognizes:

- the importance of preserving a child's aboriginal identity, and
- the specific role of aboriginal communities in ensuring the safety and well-being of aboriginal children.

First Nations, aboriginal and Metis communities continue to assert their right to control decisions affecting them, and especially decisions about the welfare of their children. In doing so, they are building on their cultural strengths, and building their capacity to become more involved in child and family services. In keeping with the development of this capacity, nonaboriginal service providers working with aboriginal children should make every effort to involve aboriginal communities in areas such as:

- acquiring information to help assess levels of risk in the child's family;
- identifying services that will reduce these risks;
- planning and delivering services that are culturally appropriate and accessible;
- participating in developing and implementing plans that will preserve the child's cultural identity;

- reuniting aboriginal children who have been removed from their culture, extended family and community;
- identifying and developing appropriate out-of-home placement resources; and
- participating as an equal party at protection and continuing custody hearings involving aboriginal children.

A number of aboriginal communities already have a well-developed network of child protection services. Some have aboriginal child welfare agencies whose employees provide family support and child protection services in their communities by authority delegated from the director, under the terms of the *Child, Family and Community Service Act*. (See Appendix B for a list of First Nations child welfare agencies which have employees with delegated authority).

Other aboriginal communities are in various stages of developing this capacity. Also, several First Nations are participating in the treaty process, which may include child welfare in the model of self-government.

A Guide to Aboriginal Organizations and Services in British Columbia, a resource booklet published annually by the Ministry of Community, Aboriginal and Women's Services, is available from:

Ministry of Community, Aboriginal and Women's Services
PO Box 9490, Stn Prov Govt
Victoria BC V8W 9N7

Phone: 250 387-4089

PART II – RECOGNIZING, REPORTING, INVESTIGATING AND DEALING WITH ABUSE AND NEGLECT

Understanding what child abuse and neglect are and knowing how to take appropriate action are critical in ensuring the safety and well-being of children.

Defining child abuse and neglect

The following definitions will help you respond to child abuse and neglect. Some are modifications of definitions given in a variety of sources. Every effort has been made to use plain language. While recognizing that one profession may use a particular term somewhat differently than another profession, the definitions below are intended to support the work of all service providers.

Child

A person under 19 years of age.

Physical abuse

A deliberate, non-accidental physical assault or action by an adult or significantly older or more powerful child that results or is likely to result in physical harm to a child. It includes the use of unreasonable force to discipline a child or to prevent a child from harming him/herself or others. The injuries sustained by the child may vary in severity and range from minor bruising, burns, welts or bite marks to major fractures of the bones or skull, and, in its most extreme form, the death of a child. Physical assault is a crime.

Sexual abuse

Sexual abuse generally means any sexual use of a child by an adult or a significantly older or more powerful child. There are many criminal offences related to sexual activity involving children. The *Criminal Code* prohibits:

- any sexual activity between an adult and a child under the age of 14 – a child under 14 is incapable in law of consenting to sexual activity (s. 150.1 of the *Criminal Code*). The criminal law recognizes that consensual "peer sex" is not an offence in the following situation: if one child is between 12 and 14 years and the other is 12 years or more but under the age of 16, less than two years older, and not in a position of trust or authority to the other.

- any sexual activity between an adult in a position of trust or authority towards a child between the ages of 14 and 18 years
- any sexual activity without the consent of a child of any age. (Depending on the activity non-consensual sexual activity may constitute the criminal offence of sexual assault.)
- use of children in prostitution and pornography.

The Ministry of Children and Family Development states that sexual abuse is any behaviour of a sexual nature toward a child, including one or more of the following:

- touching or invitation to touch for sexual purposes, or intercourse (vaginal or anal)
- menacing or threatening sexual acts, obscene gestures, obscene communications or stalking
- sexual references to the child's body or behaviour by words or gestures
- requests that the child expose their body for sexual purposes
- deliberate exposure of the child to sexual activity or material.

The Ministry of Children and Family Development states sexual exploitation includes permitting, encouraging or requiring a child to engage in:

- conduct of a sexual nature for the stimulation, gratification, profit or self-interest of another person who is in a position of trust or authority, or with whom the child is in a relationship of dependency
- prostitution
- production of material of a pornographic nature.

Sexual aspects of organized or ritual abuse should be considered a form of sexual exploitation.

Sexual activity between children or youth may constitute sexual abuse if the difference in age or power between the children is so significant that the older or more powerful child is clearly taking sexual advantage of the younger or less powerful child. This would exclude consensual, developmentally appropriate sexual activity between children where there is no significant difference in age or power between the children.

Emotional abuse

Emotional abuse is the most difficult type of abuse to define and recognize. It may range from habitual humiliation of the child to withholding life-sustaining nurturing. It can include acts or omissions by those responsible for the care of a child or others in contact with a child, that are likely to

have serious, negative emotional impacts. Emotional abuse may occur separately from, or along with, other forms of abuse and neglect.

Emotional abuse can include a pattern of

- scapegoating;
- rejection;
- verbal attacks on the child;
- threats;
- insults; or
- humiliation.

Emotional harm

When emotional abuse is persistent and chronic, it can result in emotional damage to the child. A child is defined by the *Child, Family and Community Service Act* as emotionally harmed if they demonstrate severe:

- anxiety;
- depression;
- withdrawal; or
- self-destructive or aggressive behaviour.

If a child is emotionally harmed by the parent's conduct, as demonstrated by these severe behaviours, the child is in need of protection. This must be reported to a child protection social worker.

Neglect

Neglect involves an act of omission on the part of the parent or guardian that results or is likely to result in physical harm to the child. It generally refers to situations in which a child has been, or is likely to be physically harmed through action or inaction by those responsible for care of the child. This may include failure to provide food, shelter, basic health care, or supervision and protection from risks, to the extent that the child's physical health, development or safety is harmed or is likely to be harmed. This also includes failure to thrive (see p. 13). Not always intentional, neglect may be a result of insufficient resources or other circumstances beyond a person's control.

The Child, Family and Community Service Act states that a child needs protection if the child has been, or is likely to be, physically harmed due to neglect by the child's parent.

Failing to provide the necessities, abandoning a child and corrupting a child are crimes.

Recognizing indicators of possible child abuse and neglect

Anyone who provides service to children should watch for signs of possible abuse or neglect. While many indicators, particularly those of a behavioural nature, may be signs of other problems, a series or cluster of indicators observed over a period of time may be cause for concern regarding abuse or neglect. These signs or indicators often happen in combinations or as dramatic changes from normal behaviour. They may be the child's reaction to abuse or neglect, and can be a way of communicating that he or she has been, or is being, abused or neglected.

By themselves, these signs do not prove abuse or neglect. But they do tell us we need to know more about the child's circumstances. They can be the result of phenomena such as divorce, separation, death of a significant person or the arrival of a new sibling. That's why indicators must be assessed by professionals. The important thing to know is what the signs are, and how to report them if a child may need protection.

Possible Indicators of Physical Abuse

Physical Indicators

- injuries (bruises, welts, cuts, burns, bite marks, fractures, etc.) that are not consistent with the explanation offered (e.g. extensive bruising to one area)
- presence of several injuries (3+) that are in various stages of healing
- repeated injuries over a period of time
- injuries that form a shape or pattern that may look like the object used to make the injury (e.g. buckle, hand, iron, teeth, cigarette burns)
- facial injuries in infants pre-school children (e.g. cuts, bruises, sores, etc.)
- injuries not consistent with the child's age and development
- bald patches on child's head where hair may have been torn out
- repeated poisonings and/or accidents

Behavioural Indicators

- runaway attempts and fear of going home
- stilted conversation, vacant stares or frozen watchfulness, no attempt to seek comfort when hurt
- describes self as bad and deserving to be punished
- cannot recall how injuries occurred, or offers an inconsistent explanation
- wary of adults or reluctant to go home
- often absent from school/child care
- may flinch if touched unexpectedly
- extremely aggressive or withdrawn
- displays indiscriminate affection-seeking behaviour
- abusive behaviour and language in play
- overly compliant and/or eager to please
- poor sleeping patterns, fear of the dark, frequent nightmares
- sad, cries frequently
- drug/alcohol misuse
- depression
- poor memory and concentration
- suicide attempts

Possible Indicators of Sexual Abuse

Physical Indicators

- fatigue due to sleep disturbances
- sudden weight change
- cuts or sores made by the child on the arm (self-mutilation)
- recurring physical ailments
- difficulty in walking or sitting
- unusual or excessive itching in the genital or anal area due to infection(s)
- torn, stained or bloody underwear
- sexually -transmitted disease(s)
- pregnancy
- injuries to the mouth, genital or anal areas (e.g. bruising, swelling, sores, infection)

Behavioural Indicators

In a younger child

- sad, cries often, unduly anxious
- short attention span
- inserts objects into the vagina or rectum
- change or loss of appetite
- sleep disturbances, nightmares
- excessively dependent
- fear of home or a specific place, excessive fear of men or women, lacks trust in others
- age-inappropriate sexual play with toys, self, others (e.g. replication of explicit sexual acts)
- age-inappropriate, sexually explicit drawings and/or descriptions
- bizarre, sophisticated or unusual sexual knowledge
- reverts to bedwetting/soiling
- dramatic behavioural changes, sudden non-participation in activities
- poor peer relationships, self-image
- overall poor self-care

In an older, child

- sudden lack of interest in friends or activities
- fearful or startled response to touching
- overwhelming interest in sexual activities
- hostility toward authority figures
- fire setting
- need for constant companionship
- regressive communication patterns (e.g. speaking childishly)
- academic difficulties or performance suddenly deteriorates
- truancy and/or running away from home
- wears provocative clothing or wears layers of clothing to hide bruises (e.g. keeps jacket on in class)
- recurrent physical complaints that are without physiological basis (e.g. abdominal pains, headache, nausea)
- lacks trust in others
- unable to "have fun" with others
- suicide attempts
- drug/alcohol misuse
- poor personal hygiene
- promiscuity
- sexual acting out in a variety of ways

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- recurrent physical complaints that are without physiological basis (e.g. abdominal pains, headache, nausea)
- lacks trust in others
- unable to "have fun" with others
- suicide attempts
- drug/alcohol misuse
- poor personal hygiene
- promiscuity
- sexual acting out in a variety of ways

Possible Indicators of Emotional Abuse

Physical Indicators

- bedwetting and/or diarrhea
- frequent psychosomatic complaints, headaches, nausea, abdominal pains

Behavioural Indicators

- mental or emotional development lags
- behaviours inappropriate for age
- fear of failure, overly high standards, reluctance to play
- fears consequences of actions, often leading to lying
- extreme withdrawal or aggressiveness, mood swings
- overly compliant, too well-mannered
- excessive neatness and cleanliness
- extreme attention-seeking behaviours
- poor peer relationships
- severe depression, may be suicidal
- runaway attempts
- violence is a subject for art or writing
- complains of social isolation
- forbidden contact with other children

Possible Indicators of Neglect

Physical Indicators

- abandonment
- lack of shelter
- unattended medical and dental needs
- consistent lack of supervision
- ingestion of cleaning fluids, medicines, etc.
- consistent hunger
- inappropriate dress for weather conditions
- poor hygiene
- persistent conditions (e.g. scabies, head lice, diaper rash, or other skin disorders)
- developmental delays (e.g. language, weight)
- irregular or non-attendance at school or child care
- not registered in school
- not attending school

Behavioural Indicators

- depression
- poor impulse control
- demands constant attention and affection
- lack of parental participation and interest
- delinquency
- misuse of alcohol/drugs
- regularly displays fatigue or listlessness, falls asleep in class
- steals food, or begs for food from classmate(s)
- reports that no caregiver is at home
- frequently absent or tardy
- self-destructive
- drops out of school (adolescent)
- takes over adult caring role (of parent)
- lacks trust in others, unpredictable
- plans only for the moment

Possible Indicators of Failure to Thrive

Physical Indicators

- a child who has stopped growing and/or has experienced significant weight loss may be suffering from failure-to-thrive syndrome. Medical assessment is necessary to determine whether the syndrome is organic or non-organic in origin.
- the following physical characteristics are often present in failure-to-thrive children:
  - child appears pale, emaciated, has "sunken cheeks"
  - child's body fat ratio is extremely low (e.g. wrinkled buttocks)
  - skin may feel like parchment paper as a result of dehydration
  - prolonged vomiting and/or diarrhea
  - child has not attained significant developmental milestones within their age range (e.g. cannot hold head up at six months of age, cannot walk at 18 months, etc.)

Behavioural Indicators

- appears lethargic and undemanding (e.g. cries very little)
- uninterested in environment or surroundings
- displays little or no movement (e.g. lies in crib motionless)
- is unresponsive, to, stimulation from strangers
- Shows little stranger anxiety (e.g, is indifferent to attention received from strangers)

When You Suspect a Child May Have Been Abused or Neglected

Children do not always tell us about their abuse or neglect and sometimes the indicators are not that obvious. When talking to children about possible abuse and/or neglect, the following points may be helpful:

- choose your approach carefully as the child may be fearful or reluctant to talk about what happened;
- be relaxed and casual because if you appear anxious or exhibit strong feelings the child may withdraw;
- make sure you have enough time and a private setting where there is little chance for interruptions;
- in a neutral and objective manner express your concerns to the child and seek or ask their explanation for the indicators that you have observed; and
- be a good listener and express your confidence in the child as this shows your genuine concern for their safety and well-being.

Possible Indicators of Failure to Thrive	
Physical Indicators	**Behavioural Indicators**
• a child who has stopped growing and/or has experienced significant weight loss may be suffering from failure-to-thrive syndrome. Medical assessment is necessary to determine whether the syndrome is organic or non-organic in origin. • the following physical characteristics are often present in failure-to-thrive children: – child appears pale, emaciated, has "sunken cheeks" – child's body fat ratio is extremely low (e.g. wrinkled buttocks) – skin may feel like parchment paper as a result of dehydration – prolonged vomiting and/or diarrhea – child has not attained significant developmental milestones within their age range (e.g. cannot hold head up at six months of age, cannot walk at 18 months, etc.)	• appears lethargic and undemanding (e.g. cries very little) • uninterested in environment or surroundings • displays little or no movement (e.g. lies in crib motionless) • is unresponsive, to, stimulation from strangers • Shows little stranger anxiety (e.g. is indifferent to attention received from strangers)

When You Suspect a Child May Have Been Abused or Neglected

Children do not always tell us about their abuse or neglect and sometimes the indicators are not that obvious. When talking to children about possible abuse and/or neglect, the following points may be helpful:

- choose your approach carefully as the child may be fearful or reluctant to talk about what happened;
- be relaxed and casual because if you appear anxious or exhibit strong feelings the child may withdraw;
- make sure you have enough time and a private setting where there is little chance for interruptions;
- in a neutral and objective manner express your concerns to the child and seek or ask their explanation for the indicators that you have observed; and
- be a good listener and express your confidence in the child as this shows your genuine concern for their safety and well-being.

Handling disclosures – How children tell us about being abused or neglected

Sometimes children will tell you directly that they are being abused or neglect. Sometimes they use indirect ways to tell you – through art, writing or hints. These are all known as disclosures. There are two ways a disclosure of abuse or neglect may take place:

1. Direct disclosures

Sometimes children tell others directly that they are being abused or neglected. They may start with a small example and watch how you react. Research indicates that children tell their story many times before action is taken. You should respond to a child's disclosure of abuse or neglect with an open mind and a willingness to believe them.
Bear in mind that the child will be formally interviewed for investigative purposes once a report is made to a child protection social worker and/or the police.

2. Indirect disclosures

Sometimes children do not tell others directly, but use indirect methods of communicating about their abuse or neglect. These include their behaviours, emotions, art, writing, appearance, inquiries or discussion of fears, concerns or relationships. Children also divulge information through indirect statements, statements made with conditions ("promise not to tell anyone"), or third party statements. Appendix E gives examples of these kinds of approaches and how best to respond. Leading questions should not be used because they contain an answer, which can result in inaccurate information. Use open-ended questions when talking to a child about possible abuse and/or neglect.

When a child discloses abuse

1. Stay calm and listen
2. Go slowly
3. Reassure them that they have not done anything wrong
4. Be supportive
5. Gather essential facts
6. Tell the child what will happen next
7. Report
8. Make notes

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When A Child Discloses Abuse or Neglect

1. Stay calm

An abused or neglected child needs to know that you are calm and available to help them. Reactions of shock, outrage, or fear may inhibit the child and make them feel more anxious or ashamed. A calm response not only allows the child to tell their story, it also provides the reassurance that what has happened is not so bad that it cannot be talked about and worked through calmly.

2. Go slowly

It is normal to feel inadequate or unsure about what to do or say when a child tells you about their abuse. As a result, there is a tendency to rush things. Frequently, too much is asked too quickly. Proceed slowly. Gentle questions such as: "Can you tell me more about what happened?" are helpful. Avoid questions that begin with "why".

3. Reassure the child that they have not done anything wrong

Any questions that are asked are usually associated in the child's mind with getting into trouble. Avoid using "why" questions. For example: "Why did he/she hit you?" suggests indirectly that the child may have done something wrong and increases the child's reluctance to discuss the matter.

4. Be supportive

Children need support and reassurance when discussing their abuse or neglect. It is helpful to let the child know that:

- they are not in trouble;
- they are safe with you;
- you are glad that they have chosen to tell you about this;
- they have done the right thing telling about this;
- you are sorry that they have been hurt or that this has happened to them;
- you will do everything you can to make sure they are not hurt again; and
- you know others who can be trusted to help solve this problem.

5. Get only the essential facts

If this is the first time the child has disclosed abuse or neglect, a full investigation may be necessary. The child will be interviewed in depth by a child protection social worker and, if there is a criminal investigation, by the police. To avoid the child having to endure multiple interviews, limit your discussion to finding out generally what took place. When you have sufficient information and reason to believe that abuse and/or neglect has occurred, gently stop gathering facts and be supportive.

6. Tell the child what will happen next

Children who disclose their abuse feel anxious and vulnerable about what people think of them and what will happen next. It is important, however, to avoid making promises to the child about what may or may not happen next. For example, avoid promises that the alleged perpetrator won't get into trouble. Provide only reassurance that is realistic and achievable. Discuss with the child what you think will happen next and who will be involved.

7. Report to the child protection social worker

Report disclosures of abuse or neglect immediately to a child protection social worker for follow-up and investigation. Express your willingness to help the child through the steps which will follow, if appropriate.

8. Make notes

Make notes of all comments made by the child about abuse or neglect using the child's exact words where possible. Save all drawings and artwork. This information needs to be shared with the child protection social worker, the police and Crown counsel, if appropriate.

Reporting Child Abuse or Neglect

In some ways, this is the simplest yet the most urgent aspect of responding to child abuse or neglect. If you have reason to believe a child has been, or is likely to be abused, neglected, or in need of protection, you must report the matter immediately to a child protection social worker. This duty to report is set out in legislation called the *Child, Family and Community Service Act*.

Report to a child protection social worker in either a Ministry of Children and Family Development office, or an aboriginal child welfare agency that provides child protection services.

- Monday to Friday, 8:30 a.m. to 4:30 p.m., call the local district office (listed in the blue pages of your phone book)

  or

- Monday to Friday, 4:30 p.m. to 8:30 a.m. and all day Saturdays, Sundays and statutory holidays, call the Helpline for Children. Dial 0 and ask the operator for 310-1234. This service is toll-free.

If a child is in immediate danger, police should be called. Dial 911, or call the operator and ask for police assistance.

Legal Duty to Report

Everyone who has a reason to believe that a child needs protection due to the specific circumstances outlined in the *Child, Family and Community Service Act*, is legally responsible under that act to report the matter to a child protection social worker. In British Columbia, a child is anyone under the age of 19.

The duty to report applies to everyone, including service providers, family members and the general public – in short, anyone who is aware of circumstances that should be reported.

- It doesn't matter if you believe someone else is reporting the situation, you still have to report.
- It doesn't matter if you're aware that a child protection social worker is already involved with the child, you still have to report the matter. All new incidents must be reported as well.
- The legal duty to report overrides any duty of confidentiality, except a solicitor-client relationship.
- Time is of the essence in ensuring the safety and well-being of children. Report immediately.
- If you have reason to believe that a child has been or is likely to be abused or neglected, then the responsibility for making a report to a child protection social worker legally rests with you.
- Do not contact the alleged perpetrator. This is the responsibility of the police, or the child protection social worker.
- If an employer needs to contact the alleged perpetrator in order to protect children under their authority, this should be coordinated with the police and child protection social worker.

Many agencies and ministries have developed internal reporting procedures requiring that reports be made to supervisory personnel as well as to a child protection social worker. All internal reporting procedures must conform with the legal duty to report to a child protection social worker.

When to Report that a Child Needs Protection

The *Child, Family and Community Service Act* sets out the circumstances under which you must report – that is, when you have reason to believe that a child "has been, or is likely to be, physically harmed, sexually abused or sexually exploited by a parent or by another person and the parent is unwilling or unable to protect the child, or if the child has been or is likely to be physically harmed because of neglect by the child's parent," or if:

- the child is emotionally harmed by the parent's conduct;
- the child is deprived of necessary health care;
- the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;
- the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;
- the child is or has been absent from home in circumstances that endanger the child's safety or well-being;
- the child's parent is dead and adequate provision has not been made for the child's care; and
- the child has been abandoned and adequate provision has not been made for the child's care.

How to Report

All child abuse and neglect concerns must be reported to a Ministry of Children and Family Development child protection social worker or an Aboriginal Child and Family Service Agency that provides child protection services. This applies even if a report has been made to the police.

There are three ways to reach a Ministry of Children and Family Development child protection social worker:

- **Ministry of Children and Family Development – local district office**, Monday to Friday 8:30 a.m. to 4:30 p.m. (listed in the blue pages of your phone book).
- **After Hours Lines** for Vancouver, North Shore, Richmond: 604 660-4927 Lower Mainland (Burnaby and Delta in the west to Maple Ridge and Langley in the east): 604 660-8180 Anywhere else in B.C.: 1 800 663-9122
- **Helpline for Children** – dial 0 and ask the operator for 310-1234. This toll-free service operates 24 hours a day.

In most circumstances, the identity of the person who makes a report will not be revealed without consent unless the child protection social worker is required to give their name for the purposes of a court hearing.

What to Report

The report should include the reporter's name, telephone number and relationship to the child. It should also provide as much of the following information as possible:

- the name and location of the child;
- any immediate concerns about the child's safety;
- any information as to why you believe the child is at risk;
- any statements or disclosures made by the child;
- the age and vulnerability of the child;
- information on the family, parents and alleged offenders;
- information on siblings or other children who may be at risk;
- knowledge of any previous incidents or concerns regarding the child;
- information about other persons or agencies closely involved with the child and/or family;
- information about other persons who may be witnesses or may have information about the child;
- information on the nature of the child's disabilities, if any, his or her mode of communication, and the name of a key support person;
- any other relevant information concerning the child and/or family, such as language or culture.

Don't delay making a report just because you don't have all this information. Contact the child protection social worker immediately with the information you do have.

You don't have to report when it is clear that an injury or other harm is accidental and is a result of circumstances outside the control of the parent or other person responsible for the child in, for example, a playground injury.

Informing the police

Police play an important role in protecting children. They can respond quickly to protect children in immediate danger.

- If a child is in immediate danger, every person aware of it must call the police right away, then report to a child protection social worker as soon as possible.
- If a child is not in immediate danger, report to a child protection social worker. They will call police if they believe a criminal offence is occurring or may have occurred.

Child protection social workers understand the need to involve police immediately where it is evident that a criminal offence has occurred or is occurring. This is particularly important in matters such as sexual assault where it is critical to the investigation that evidence be obtained immediately. *Prompt action can prevent further harm and help police catch the perpetrator.*

Police are responsible for conducting a criminal investigation which can include obtaining witness statements, arranging to obtain medical forensic evidence where appropriate, protecting the crime scene and maintaining the continuity of evidence.

Informing a superintendent of schools in the case of a public school or a senior authority in the case of other educational institutions

When child abuse or neglect is believed to have occurred in a public school or in an educational institution, or during school activities sponsored by the school or institution, the child protection social worker will notify the school superintendent, in the case of a public school, or the senior authority, in the case of other educational institutions.

If a case comes to the attention of an employee of a public school or an educational institution, the employee must report it to a child protection social worker and to the superintendent or senior authority.

The school board, superintendent of schools or senior authority of an educational institution has the responsibility of ensuring the safety of children in educational settings, and has the authority to suspend or dismiss employees, and suspend or expel students.

If a child is in immediate danger and requires police assistance, police should be notified without delay so they can protect the child.

When abusive behaviours between children occur at school, school personnel should immediately notify the principal, who is responsible for student conduct. The principal also has a duty to report promptly to a child protection social worker if he/she has reason to believe a child has been or is likely to be abused or neglected. The report of school personnel to the principal does not replace his/her duty to report to a child protection social worker.

Informing a medical health officer

When child abuse or neglect is believed to have occurred in a child care facility that is or should be licensed, the child protection social worker will notify the medical health officer. Child care facility licensees are also required to inform the medical health officer.

These facilities include:

- preschools;
- special needs child care (also known as supported child care);
- group day care;
- emergency care;
- family child care;
- child minding;
- out-of-school care;
- residential care for children and youth; and
- occasional child care, for example at a ski hill or resort.

Informing a director of a youth custody (containment) centre

Youth custody centres are legislated by the *Youth Criminal Justice Act* as places of detainment and detention. When abuse or neglect is believed to have occurred in a youth custody centre, or while participating in centre activities, the child protection social worker will notify the director of the youth custody centre.

If a case comes to the attention of an employee at the youth custody centre, the employee must report it to a child protection social worker and to the director of the youth custody centre.

The director of the youth custody centre is responsible for taking the necessary steps to ensure that children in the facility are safe. It should be noted that children cannot be removed from the youth custody centre unless permitted by provisions of the *Youth Criminal Justice Act* and relevant provincial legislation.

Other reporting considerations

Child sexual exploitation

If you suspect that a child is being coerced to perform sexual activities or may be involved in pornography, contact the police immediately. Children in residential programs are particularly vulnerable as are children living on the street. Children may be coerced into providing sexual services in exchange for a place to sleep, food, a shower or for money. It is the responsibility of the police and a child protection social worker to determine the type of intervention necessary and whether criminal offences have occurred. Children involved in the sex trade are victims of sexual abuse and not criminals.

Abusive behaviour between children

Abusive behaviour between children, including sexual behaviour, generally involves an imbalance of power. For example, one child may be significantly older than the other, or one of the children may be more vulnerable for other reasons.

This kind of behaviour has many different causes and occurs along a continuum of severity. Responses to the children's behaviour will therefore vary. A sensitive, collaborative approach and careful analysis by service providers, parents and the community are key components of any effective response.

The decision as to whether to report to a child protection social worker is made on a case-by-case basis. There is no need to report:

- normal sexual play or exploration between children of similar ages;
- minor altercations or aggression between children; and
- any other activity that is in the bounds of normal childhood behaviour.

Factors to be considered when deciding to report include:

- the seriousness of the behaviour;
- the existence of a power imbalance between the children;
- whether the behaviour resulted in harm to the child(ren); and
- the willingness and ability of the involved children's parents to respond appropriately.

In deciding whether to report to a child protection social worker, ask yourself:

- are the children behaving inappropriately for their age?;
- are they being coercive or exploitative?;
- is their behaviour impulsive or premeditated?;
- is there a pattern of domination, force, aggression (actual or threatened) or intimidation which endangers the physical or psychological well-being of another child?

The child protection social worker may contact the parents of the affected children (both abused and aggressor) to decide whether their behaviour is an indicator of abuse or neglect. The child protection social worker may also:

- need to determine whether the parent(s) will take appropriate action to prevent further abuse; and
- where appropriate, speak to the children with the consent of the parent(s).

The child protection social worker consults with others involved with the child to decide whether an investigation into the child's need for protection should commence. A report will be made to police if it is believed that a criminal offence may have occurred or is occurring.

The child protection social worker shares the results of his or her a assessment with the parent(s), when appropriate, and with the person in authority where the abusive behaviour occurred. It is important for the child protection social worker to work with other service providers to develop and implement a community safety plan, where appropriate, and to ensure that counselling services are arranged as needed for the affected child(ren) and family/families.

Police should be called if a child needs immediate police assistance or if a criminal offence has occurred or is occurring.

A child under 12

Where a child under 12 has killed, assaulted or endangered another person, police must report to a child protection social worker. Where police receive a report of a child under 12 who has committed a less serious offence, they may report the circumstances to a child protection social worker.

If a child discloses past abuse to you, you must report it to a child protection social worker.

Historical abuse

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An adult who was abused as a child may be in a position to know if their abuser could be abusing other children. If they have reason to believe this is happening, they have a legal duty to report this belief to a child protection social worker.

A service provider who has reason to believe that a child has been or is likely to be abused by an alleged past abuser also has a duty to report this belief to a child protection social worker.

When working with adults who were abused as children inform them of their legal duty to report any current belief that a child has been or is likely to be physically or sexually abused. It may not be easy for them to report and they may need your support.

In addition to receiving the report, a child protection social worker or any service provider can advise the adult of the services or remedies that may be available through the police, the Criminal Injury Compensation Program, victim services and civil litigation.

Reporting child fatalities

Under the *Coroners Act*, you must notify a coroner or police if you become aware of a child fatality that is sudden and unexpected. Most reports under the act are made by police and hospital personnel. However, other individuals may call a coroner if they are not sure whether a report has been made, or if they want to know the status of the coroner's investigation.

A child protection social worker who becomes aware of the death of a child in care, or a child otherwise known to them, files a report under the *Child, Family and Community Service Act* to the director, who in turn notifies the chief coroner.

Failing to Report or Knowingly Making a False Report

Sometimes people don't make a report because they think they need proof to back it up. This is not true. All that is required is reason to believe that a child has been, is, or is likely to be physically harmed, sexually abused, sexually exploited, or in need of protection.

The person making the report is not responsible for determining whether the abuse and/or neglect actually happened or is likely to happen. That is the job of the child protection social worker.

Remember, reporting can be the beginning of a positive change, and can keep the child and perhaps other children from harm. *Reporting can save lives.*

Failing to promptly report suspected abuse or neglect to a child protection social worker is a serious offence under the *Child, Family and Community Service Act*. So is knowingly making a false report. Both offences carry a maximum penalty of a $10,000 fine, or six months in jail, or both. No action for damages may be brought against a person for reporting information under the *Child, Family and Community Service Act* unless the person knowingly reported false information.

When a child protection social worker learns that someone may have failed to report child abuse or neglect, or has knowingly made a false report, they assess this information. If they believe there has been a failure to report, or that false information was reported, they inform the police, who may investigate and recommend charges under the *Child, Family and Community Service Act*.

Investigating Child Abuse and Neglect

The child protection social worker, police and any other person involved in an investigation (e.g. the medical health officer or the superintendent of schools) all share responsibility for ensuring the safety of children. They must immediately clarify the roles and responsibilities of each participant, collaborate and cooperate throughout the investigation(s), since an investigation into reported abuse or neglect has to be done quickly.

There are several types of investigations related to child abuse or neglect. They may occur simultaneously, requiring a cooperative approach. An agency's role and responsibilities will vary, depending on the purpose of the investigation.

If the primary purpose is to . . .	▶	then the person or organization primarily responsible for the investigation is . . .
determine if a child needs protection	▶	a child protection social worker
determine whether a criminal offence has occurred	▶	police, who become involved in all investigations when a criminal offence may have occurred
investigate as an employer or controller of student discipline where there has been a report of child abuse or neglect by an employee, contracted, service provider, volunteer or student at an educational institution	▶	the superintendent of schools or appropriate senior authority of the educational institution
review the status of a facility's licence when there is a report of child abuse or neglect in a facility that is or should be licensed under the *Community Care Facility Act*, such as a child care facility	▶	the medical health officer
investigate as an employer or controller when there is a report of child abuse or neglect in other settings (e.g. hospitals, youth custody centres, volunteer organizations such as athletic teams, etc.)	▶	the head of the organization
investigate abusive behaviour between children	▶	varied depending on where the abuse took place, the nature of the abuse, and the authorities that need to be involved
investigate, as an employer or controller of resident discipline where there has been a report of child abuse or neglect by an employee, contracted service provider, volunteer or resident at a youth custody centre	▶	the director of the youth custody centre
investigate professional conduct of a member belonging to a regulated profession	▶	the registrar of the regulated profession

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As with every other aspect of protecting the well-being and safety of children, various people conducting investigations must work closely together and share information when they are legally permitted. Your priorities should be to treat the child sensitively, keep the number of interviews to a minimum, provide plenty of support, and limit the emotional impact on the child as much as possible.

Initial response by a child protection social worker

The child protection social worker's main initial task upon receiving a report is to assess the information in it. The purpose of the assessment is to decide how to respond to the report.

Child protection social workers may speak to parents and others before deciding whether to investigate, so that needs and problems can be clarified and services provided without waiting until the situation reaches a critical point. At this stage, social workers can work to support families even in the absence of clear protection concerns.

Decision about whether to investigate.

A child protection social worker may investigate if:

- they have reason to believe that the child may need protection and an investigation is required; and
- the report concerns a matter that is within their jurisdiction.

If, based on their assessment of the information, the child protection social worker does not have reason to believe that the child needs protection, they may consider the following alternatives to investigation:

- offering support services to the family;
- referring the child and/or family to a community agency; or
- taking no further action.

Initial response by police

Police should respond promptly to reports of alleged criminal offences related to child abuse or neglect. If the alleged offence did not occur recently and the child's safety has been ensured by a child protection social worker, an immediate response by the police may not be required.

The attending officer should inform the child and/or parent(s) of the availability of victim services. Where these services do not exist, the officer will make every effort to ensure that follow-up services are provided to meet the information and support needs of the child and family. Where appropriate, the officer involves a child protection social worker and other service providers as soon as possible.

Where a police officer has reasonable grounds to believe that a child's health or safety is in immediate danger, and there are no other means available to ensure the child's health or safety, the officer may take charge of the child under the *Child, Family and Community Service Act*. The officer must notify the child protection social worker immediately after taking charge of the child. The child protection social worker will speak with, the parent and the child if possible, and will make arrangements with the police to ensure that the child is safe. This may include:

- returning the child to the parent at a place of safety;
- taking the child to a safe place identified by the parent (such as the home of a relative or family friend); or
- taking the child to another place of safety.

When a child under 12 breaks the law, police have the authority, under the *Child, Family and Community Service Act*, to take charge of the child and deliver the child to their parent(s) as defined in that act. Police report such circumstances, where appropriate, to a child protection social worker.

General considerations in investigations

Interviewing a child

Child protection social workers and police are authorized to interview a child for child protection or criminal investigations respectively.

Responding to a child's needs

Treating the child sensitively is a priority. The interview should take place as soon as possible following the disclosure or report, and the number and duration of interviews should be kept to a minimum. Joint interviews should be conducted whenever possible.

Special techniques may be needed to communicate with children who are very young or who have certain disabilities. Where the child has difficulty communicating, the interviewers should make arrangements to have a competent and unbiased interpreter or communication specialist, or a person skilled in communicating with the particular child, present for the interview. Court registries have lists of approved language interpreters.

It is important for the child to be interviewed in a place that is likely to be perceived by the child as safe and non-threatening and, if the child has a disability, a room that is physically accessible to them. If interviews are to be conducted in an adult setting, such as a police station, the interviewing room should be made as comfortable and child-friendly as possible.

A support person may be present if appropriate. The investigator should brief the support person on his or her role before the interview, so that the interview process is not jeopardized.

A support person can assist in an interview by:

- attending to the child's need for privacy during the interview and getting to or from the interview;
- being a quiet presence to help the child feel safe and secure.
- helping to make the interview space comfortable;
- responding to external and other interruptions (e.g. accompanying the child to the bathroom);
- providing for physical needs (e.g. facial tissue, water, a favourite toy).

Assistance from service providers

Service providers, such as health care and education personnel and child care providers, may assist with the interview by:

- providing the interviewer with access to the child;
- providing an appropriate place to interview the child;
- being present during an interview to support the child if requested and if it will assist the investigation;
- providing the interviewer with any relevant information about the child, including the child's culture, developmental level, family circumstances and emotional state; and/or
- providing other assistance (e.g. an interpreter or equipment for children whose first language is not English, or who have a communication disability).

Supporting the child and family during investigations

Child protection social workers and police should, at the earliest opportunity, support the child and family, as appropriate, and explain the investigation process. In criminal investigations, where victim services are not already involved, police should advise the child and/or family of the availability of victim services.

Investigators should provide the following information for the child and family:

- phone numbers and addresses for support services for parents and children;
- police case file number;
- investigator's name and telephone number;
- steps that will be taken in the case;
- what to expect during the investigative process; and
- how to obtain information about the progress of the case.

Other service providers who are involved with the family and who become aware of the investigation should also be prepared to offer support during an investigation, which is a time when a family may feel particularly vulnerable. This may include:

- letting the child and/or family know you are available if they would like to talk with someone;
- checking on how they are doing as the case progresses;
- offering to accompany them to court to provide emotional support; and
- encouraging them to seek professional help, if that is what seems to be needed.

Supporting other people affected by the abuse or by the investigation

In cases where several children may have been abused or neglected (e.g. in a school or child care setting), other people are often affected. Critical stress debriefing or other appropriate support should be arranged for all those affected, and coordinated in a way that does not interfere with the investigation process.

Responding to child protection reports during custody and access disputes

Reports of child abuse and neglect that are made by one party against the other in a custody and access dispute are to receive the same careful consideration as all other types of reports. The fact that the report occurs during a custody and access dispute is one of several factors to consider (e.g. dynamics in the parents' relationship), but is not in itself a reason for not investigating.

If a family court counsellor, or anyone else directed by the court to carry out a custody and access investigation, receives an allegation of abuse or neglect, they must report the allegation to a child protection social worker and generally await the outcome of the investigation before taking any

further action on the custody and access issues. If there are more than two parties involved, the custody and access investigation of non-accused parties can continue. Measures are available to keep the child safe while awaiting the outcome of the investigation. The parties may wish to obtain legal advice.

The child protection investigation

Timing of the investigation

An investigation must begin when a child protection social worker assesses a report and believes that a child may need protection. The purpose of the investigation is to determine:

- whether there are reasonable grounds to believe that a child needs protection and, if so;
- what action is necessary to protect the child.

The investigation must be undertaken immediately if the child's health or safety is in immediate danger or the child is particularly vulnerable because of age or developmental level.

In any other case, the investigation must be undertaken within five calendar days of assessing the report, and must be completed within 30 days.

Steps in a child protection investigation

A child protection social worker may take one or more of the following steps in completing a child protection investigation:

- decide whether a child is in immediate danger of harm and, if so, develop and implement a plan for immediate safety to protect the child;
- report the matter to the police immediately:
  - — in those cases where a criminal offence may have occurred or is occurring; or
  - — as soon as it becomes evident that the abuse or neglect may constitute an offence under the *Criminal Code*; and
  - — where the abuse or neglect may constitute a criminal offence, coordinate with the police, who are responsible for ensuring that medical evidence is obtained;
- coordinate with other investigators, as applicable, and observe relevant protocols;
- identify any involved aboriginal agencies, Indian bands, or foster parents;

- review other information available, including current and closed records in the Ministry of Children and Family Development, and records from other professionals or agencies that may be involved with the family;
- contact the parent(s) before interviewing the child, unless the parent(s) cannot be located or contact would interfere with the investigation;
- interview the child, siblings and other children in the home;
- interview the parent(s);
- interview other people who know the family, or are a resource to the family, and who may have additional information about the situation;
- ensure that the child undergoes a medical examination in the appropriate circumstances (e.g. in cases where alleged physical or sexual abuse may have occurred or where there has been severe or persistent neglect);
- obtain an immediate assessment by a mental health professional in the appropriate circumstances (e.g. in cases where a child is suicidal or self-mutilating);
- conclude the investigation by deciding whether or not there are reasonable grounds to believe that the child needs protection;
- unless reporting would cause emotional or physical harm to any person or endanger the child's safety, or if a criminal investigation is under way or contemplated, report the results of the investigation to:
  - — the parent who is apparently entitled to custody;
  - — the person who reported;
  - — the child who is capable of understanding the information;
  - — other service providers, as necessary, to ensure the safety and well-being of the child.
- maintain records of the child protection investigation, including written reasons why actions were taken or not taken.

The role of other service providers in a child protection investigation

Police may be called upon to:

- investigate allegations of a criminal offence;
- conduct a joint or parallel investigation;
- take charge of a child who is in immediate danger;
- assist in entering the premises, by force if necessary;
- assist the child protection social worker in removing a child; or
- assist in enforcing an order giving a child protection social worker access to a child to complete a child protection investigation.

Suspected Child Abuse and Neglect (SCAN) Teams

- *provide diagnostic and psychosocial assessments;*
- *provide education and training/orientation on child abuse and neglect for hospital personnel; and*
- *serve as a link to community resources.*

British Columbia's Children's Hospital provides consultation to other hospitals wishing to develop their own SCAN teams.

Health professionals, particularly physicians, hospital-based social workers and nurses, and public health nurses, may be called upon to:

- provide a safe and supportive environment while a medical examination is taking place in a hospital, clinic or practitioner's office;
- prepare the child for examination;
- provide comprehensive consultative services to child protection social workers and other service providers, particularly where medical or developmental issues are of importance;
- determine a child's capacity to consent to health care; and,
- conduct a medical examination, especially when the child protection social worker
  - — believes the child may have suffered non-accidental physical harm or injuries;
  - — is not satisfied that the parent's explanation of the injury is consistent with the harm the child has suffered;
  - — believes the child may have been sexually abused;
  - — believes a child's development is likely to be seriously impaired by a treatable condition, and the parent(s) refuses to provide or consent to treatment; or
  - — believes the child is being deprived of necessary medical care.

Physicians who do not feel they have the expertise to conduct examinations for child abuse and neglect should refer these cases to physicians with specialized expertise in this area when available.

Many larger hospitals have Suspected Child Abuse or Neglect (SCAN) Teams who may assist the child protection social worker in coordinating the investigation. The child protection social worker, police and hospital or other health personnel should coordinate medical examinations to prevent the child from having to be examined more than once.

As a provincial resource, B.C.'s Children's Hospital child protection unit provides assessments of children who have been abused or neglected, and consultation to, and training of, physicians in British Columbia.

Support from other service providers

A child who has been abused or neglected may continue to feel the effects long after the crisis of disclosing this information is over. The child needs to be in a safe environment and to be given respect, understanding, guidance and support.

Because many children spend much of their time in child care facilities, schools and recreational programs, staff are in key positions to provide support for a child who has been abused or neglected. The facility should be a safe and nurturing place. Above all, the child needs to be regarded and treated as one of the group or class, and not singled out.

Plans to support the child should be made by staff in consultation with the child and the child's parent(s), and should be appropriate to the child's age and developmental stage.

Interviewing the parent(s)

The intent of the child protection social worker's interview with the parent(s) is to obtain the parent(s)' view and perspective, and to assist in assessing the parent(s)':

- involvement in the abuse or neglect;
- ability and willingness to protect the child;
- willingness to believe the child's account of events;
- ability and willingness to support the child;
- own need for support.

Where interviews of the parent(s) or other adult witnesses are likely to be required by both police and a child protection social worker, police should collaborate with the child protection social worker in scheduling these interviews.

In cases where a criminal offence may have occurred, and both the police and child protection social worker need to interview the parent(s), they should collaborate to make the appropriate arrangements.

Deciding whether a child needs protection

The decision about whether a child needs protection under the *Child, Family and Community Service Act* rests solely with the child protection social worker. This decision can be based on information from others involved in the investigation, such as police, teachers, public health nurses, physicians, cultural or social service agencies, child care providers or, where the child is aboriginal, a designated representative of the aboriginal community.

The decision requires a careful assessment of all the facts, evidence and professional opinions obtained during the investigation, as well as the child's views and the ability and willingness of family members or others close to the child to protect the child.

Outcomes of the child protection investigation

If, after investigating, the child protection social worker does not have reason to believe that the child is in need of protection, the child protection social worker may, in consultation with the family and service providers who work with the child and/or family, arrange support services for the family as needed. If these services are not required, the child protection social worker will take no further action.

If, after investigating, the child protection social worker has reasonable grounds to believe the child needs protection, the child protection social worker is directed by the *Child, Family and Community Service Act* to take those available measures that are least disruptive to the child, unless the child is in immediate danger. If there is reason to believe that the child needs protection and is in immediate danger, the child protection social worker may remove the child.

If there is reason to believe that the child needs protection but is not in immediate danger, the child protection social worker must not remove the child if other available measures are less disruptive to the child and meet their need for protection. These may include:

- support services
- a court order for essential health care;
- a temporary provision to take charge of a lost, runaway or unattended child;
- arrangements for a child to reside outside the home (e.g. with relatives or friends) with the consent of the parent; or
- agreements or court orders to enable the removal of an offending person from a child's home or to prohibit contact or interference with the child.

If no other measures are available or adequate to keep the child safe, the child protection social worker removes the child.

Criminal investigation

General steps in the police investigation

Police conduct an investigation to determine whether there are reasonable and probable grounds to believe that a criminal offence related to child abuse or neglect has been committed. This includes cases that do not immediately appear likely to proceed to prosecution. For example, a case may have to proceed without the child's testimony due to age, communication, difficulty or reluctance on the part of the child and/or family.

The investigation involves gathering evidence in order to establish the facts, and preparing for criminal proceedings where appropriate. This includes:

- preserving the crime scene;
- obtaining the child's account of events;
- obtaining a statement from the alleged offender;
- obtaining statements from other witnesses;
- arranging to obtain and preserve any physical evidence;
- obtaining medical and other expert opinions if needed;
- determining the need to arrest a suspect; and
- submitting a report to Crown counsel where criminal charges are being recommended.

Obtaining medical forensic evidence

Where police require a medical examination of the child for the purpose of obtaining forensic evidence, and a child protection investigation is also underway, police should collaborate with the child protection social worker in making arrangements for the medical examination.

Where the alleged offence involves very recent sexual assault or serious physical injury, police should make every effort to ensure that the child is immediately examined by an appropriate health care practitioner. In other cases where a medical examination is required, police should make arrangements with the child and/or parent(s) to have the child examined as soon as possible.

Police should discuss with the health care practitioner and, where involved, the child protection social worker, the type of forensic evidence that needs to be collected. The medical examination should be conducted and evidence collected in a way that is least intrusive to the child. Police should ensure that the child and parent(s) are aware of their options to consent to all or parts of the medical examination, and how the prosecution may be affected if consent is not given. Where police attend

the hospital or health care facility with the child, they should consult with medical personnel to ensure that the storage of forensic evidence satisfies evidentiary requirements.

Victim services

Throughout the criminal justice process police will inform the child and/or parent(s) about the availability of services that support victims of child abuse or neglect and their families. In communities where they exist, specialized victim services that serve children will normally be the primary victim service provider. Where there are no victim services in the community, police, in collaboration with the child protection social worker and community agencies, will ensure that follow-up services are made available to the child and family.

Investigations in public schools and other educational institutions

If child abuse or neglect is believed to have occurred in a public school or in another educational institution or during school activities, the investigation is conducted in a coordinated manner through the following activities:

- the child protection social worker assesses the report to decide how to respond to it, and commences an investigation if there is reason to believe that a child may need protection;
- the police conduct an investigation to determine if a criminal offence may have been committed; and
- the superintendent of schools or the senior authority of an educational institution investigates as part of his/her legal responsibilities.

The superintendent of schools or the senior authority is responsible for coordinating investigations that occur in a public school to:

- ensure that the child is safe from harm during the investigations;
- assist the investigators in clarifying their respective roles, mandates and responsibilities in responding to the report of abuse or neglect;
- ensure that required investigations are not interfered with or compromised by persons under the superintendent of schools' authority;
- assist parents in obtaining information about the investigation and its results from the appropriate authority;
- document the results of any investigation performed at the direction of the superintendent; and

- collaborate with other professionals to develop follow-up plans to support the alleged victim and others, both children and staff, who may be affected by the disclosure or investigation (e.g. critical incident debriefing, counselling, referrals, etc.).

The school superintendent is authorized, under the *School Act*, to investigate reports that a child is not registered with a school or is not receiving an educational program. If the superintendent has a reason to believe that a child needs protection, they must report this matter to a child protection social worker.

The school principal is responsible for the safety of children while they are attending school and/or participating in school activities. Parents are entitled to be informed of their child's behaviour in school. School staff may contact parents to ensure that they are aware when abusive behaviour between students occurs at school or at an authorized school function.

The *School Act* provides authority for a school board to dismiss, suspend or otherwise discipline an employee for just and reasonable cause. If a superintendent of schools believes the welfare of students is threatened by the presence of an employee, the superintendent may suspend the employee. The school board has the power to confirm, vary or revoke that suspension. School boards must report to the College of Teachers, without delay, the reason for any teacher's dismissal, suspension, or disciplinary action and any resignation in which circumstances are such that it is in the public interest to do so.

Within the independent school system, teachers are certified under either the *Teaching Profession Act* or the *Independent School Act*. Under the *Independent School Act*, the Inspector of Independent Schools has the authority to issue teacher certification restricted to independent schools and to suspend or revoke certification for cause. Independent school authorities must report, without delay, the reason for any teacher's dismissal, suspension or disciplinary action and any resignation in which circumstances are such that it is in the public interest to do so. All such reports are directed to the Inspector of Independent Schools, and to the College of Teachers when the teacher involved is a college member.

Investigations in community care facilities

When a report of child abuse or neglect in a licensed child care facility is received by a child protection worker, medical health officer or the police, each should promptly notify the other two. (Note: The medical health officer also has responsibility for investigations in facilities which are operating without a required license).

The following investigations are then conducted in a coordinated manner:

- the child protection social worker assesses the report to decide how to respond and investigates if the child may need protection;
- the police conduct an investigation to determine if a criminal offence may have been committed;
- the medical health officer (or delegated licensing officer) conducts a licensing investigation to determine if:
  - — any immediate action needs to be taken to ensure the health and safety of the children in the facility (e.g. attach conditions to or suspend the licence);
  - — the licensee has contravened the *Community Care Facility Act* or regulations and decide what, if any, the consequences will be for the licensee (e.g. attach conditions to, cancel or suspend the licence);
  - — any action needs to be taken to prevent an unlicensed facility from operating.

A medical health officer conducting a licensing investigation may request that the Ministry of Children and Family Development second a child protection social worker to provide assistance in interviewing the allegedly abused child and other children.

The facility operator is responsible for taking the necessary steps to ensure that all children in the facility are safe during the investigation. If the medical health officer has reasonable grounds to believe the health or safety of the children is at risk, they may attach terms or conditions to, or suspend, a licence.

Investigations in youth custody (containment) centres

If child abuse or neglect is believed to have occurred in a youth custody centre, while participating in custody centre activities or on authorized absences, the investigation is conducted in a coordinated manner through the following activities:

- the child protection social worker assesses the report to decide how to respond and commences an investigation if there is reason to believe that a child may need protection;
- the police conduct an investigation to determine if a criminal offence may have been committed; and
- the director of the custody centre investigates as part of his or her legal responsibilities.

The director of the custody centre is responsible for coordinating investigations that occur in the youth custody centre to:

- ensure that the child in the custody centre is safe from harm during the investigation;
- assist investigators in clarifying their respective roles, mandates and responsibilities in responding to the report of abuse or neglect;
- ensure that required investigations are not interfered with or compromised by persons under the director's authority;
- ensure that children are not interviewed more than necessary;
- assist parents or guardians in obtaining information about the investigation and its results from the appropriate authority subject to any legal requirements or limitations;
- document the results of any investigations performed at the direction of the director; and
- collaborate with other professionals to develop follow-up plans to support the alleged victim(s) and others, both children and staff, who may be affected by the abuse or investigation. (e.g. counselling, referrals, critical incident debriefing, etc.).

After the investigation – child protection legal proceedings

Child protection proceedings must occur whenever a child is removed from their home, and may include three stages of hearings:

- presentation hearing;
- child protection hearing;
- continuing custody hearing.

Some child protection proceedings can also occur without removal if the child protection social worker has reason to believe the child needs protection but removal is not necessary to make the child safe (e.g. if the alleged abuser resided in the home but is ordered by the court to leave, i.e. protective intervention order).

Service providers closely involved with the child and family may have a role to play in supporting the child and family during the legal process. You may also be asked to appear in court as a witness or to give expert testimony.

Service providers and other professionals who have been in contact with the child and/or the child's parent(s) may be asked, or required by subpoena, to be witnesses in court proceedings. You have the right to contact your own lawyer to discuss your role and obligations as a witness.

You may also want to contact a lawyer to discuss your rights, obligations and legal options in responding to a court application or order related to your agency's or organization's records.

The presentation hearing

The first court hearing following removal is the presentation hearing. This is generally a short hearing where a child protection social worker reports on the reasons why the child was removed. Information from the reporter or others who may be involved with the child may be part of the child protection social worker's report.

The court may order that the child:

- remain in the director's custody,
- be returned to the parent(s), with or without supervision by the director, or
- be placed in the custody of a person other than the parent with supervision by the director.

The protection hearing

If an order is made giving the director interim custody of the child, or if the child is returned home under an interim supervision order, a protection hearing begins within 45 days of the conclusion of the presentation hearing. This allows time for further assessment of the child's circumstances and the development of a comprehensive plan of care for the child.

During this period, the child protection social worker may return the child to the parent(s) and withdraw from the proceeding, provided that arrangements are adequate to keep the child safe.

At the protection hearing, the court must determine whether the child needs protection, as defined in the *Child, Family and Community Service Act*, and who should have custody of the child. If the court finds that the child needs protection, it must make one of the following orders in the child's best interests:

- that the child be returned or remain with the parent(s) from whom the child was removed (a supervision order must accompany this order);
- that the child be placed in the temporary custody of another person under the supervision of the director;
- that the child be placed in the temporary custody of the director; or
- that the child be placed in the continuing custody of the director.

Criminal proceedings

Physical assault, sexual assault and other sexual offences involving children are crimes. Abandoning a child and failing to provide the necessities of life are crimes. Police determine whether there are grounds for a criminal investigation and, if necessary, conduct an investigation. A summary of *Criminal Code* offences is found in Appendix D.

Keeping the child and/or parent(s) informed – the Victims of Crime Act

The Victims of Crime Act provides that victims can request and obtain information about a case as it proceeds through the criminal justice system, including information about:

- the status of the police investigation;
- decisions regarding charges, court dates and outcomes;
- release of the accused/offender and conditions of release.

Information can be obtained from police, victim services, court registries, the Court Services Branch, Criminal justice Branch or Corrections Branch of the Ministry of Attorney General.

In cases where the child's safety may be at risk because of changes in the status of the accused/offender (e.g. release from custody, changes to bail order), the child and/or parent(s) will be advised as soon as possible.

Consistency and continuity of approach

Each component of the justice system strives for a consistent approach to child abuse and neglect cases, from initial contact through to disposition of the case. When different personnel are involved with a case, communication among them is important in order to ensure continuity of planning and services.

Victim services

Trained victim service workers are able to provide emotional support, court orientation, information and referrals, and court accompaniment for children and their families as they go through the criminal justice system. In addition to justice related support, specialized victim services in some communities may also provide counselling service for children who have been abused or neglected.

Arrest and recommending charges

Public interest considerations often apply in favour of arrest in order to secure the suspect's attendance in court, and prevent the repetition of the offence or the commission of other offences such as interfering with the administration of justice and intimidation of witnesses.

Where the suspect is arrested and released from police custody, police should notify the child and/or parent(s), child protection social worker and victim services (if involved) of the release and any condition attached to it.

Where there are reasonable grounds to believe that an offence has been committed, and a suspect has been identified, police should forward a report to Crown counsel recommending a charge.

Laying of charges, case preparation and bail hearing

Given the serious nature of criminal offences related to child abuse and neglect, the prosecution of such offences is almost always in the public interest. Therefore:

- Crown counsel should take steps to expedite the processing of child abuse and neglect cases, in recognition of the importance of timeliness to children;
- if there is a substantial likelihood of conviction, charges should normally be approved; and
- diversion from the formal justice system of persons charged with a *Criminal Code* offence related to physical or sexual abuse or neglect of children will rarely be approved by Crown counsel, and only after consultation with the regional Crown counsel or the Assistant Deputy Attorney General.

It is crucial that Crown counsel explain the court processes to the child and parent(s), and prepare the child for testifying in court. To assist the child in giving evidence, Crown counsel may, depending on the circumstances, request the judge to:

- allow the child to testify outside the courtroom or behind a screen (s. 486 (2.1) of the *Criminal Code*)
- exclude the public from the courtroom (s. 486 (1) of the *Criminal Code*)
- allow a child under 14 to have their support person of choice present and close to the child while they are testifying (s. 486 (1.2) of the *Criminal Code*).

Where Crown counsel has approved charges for a criminal offence of child physical assault, sexual assault or other sexual offences involving children, or neglect, Crown counsel will routinely inform the accused's employer or "governing body" of the name of the accused and the nature of the charge(s) laid, having considered any publication bans and the requirements of the *Freedom of Information and Protection of Privacy Act*.

Where Crown counsel has approved charges for an offence(s) of child physical or sexual abuse or neglect including an offence(s) of sexual exploitation, Crown counsel is required by the *Criminal Records Review Act* to inform the accused's "employer" or "governing body" of the name of the accused and the nature of the charge(s) laid.

Where Crown counsel is aware that a child protection social worker is involved with a case of child abuse or neglect, Crown counsel should inform them of the decision concerning charges.

Bail hearing

Crown counsel policy provides that throughout the bail process, Crown counsel should consider the protection and safety of the child and any witnesses, and seek as appropriate either detention or protective bail conditions.

If the accused is released, Crown counsel should advise the child and/or parents and any other person protected by the bail conditions of the release of the accused on bail, and the conditions of that release.

Policy provides that Crown counsel should generally apply for a publication ban pursuant to section 486 of the *Criminal Code* which protects the child from the publication of any information which would identify them as a complainant in a sexual assault case.

Corrections Branch and Youth Probation Officers

Bail supervision

Given the serious nature of child abuse and neglect, the bail supervisor should closely monitor all accused persons released on bail, in liaison with the child protection social worker (where involved).

The bail supervisor should advise the following people of the protective conditions in the order, and how and to whom they should report breaches of those conditions:

- the child victim and/or parent(s);
- any other persons protected under the order;
- he child protection social worker; and
- where appropriate, other persons in close contact with the accused.

Community release and supervision

Where an offender is released on probation or with a conditional sentence order containing protective conditions, court registry staff should provide a copy of the order to the investigating police department as soon as possible after the order is signed.

All offenders are subject to a criminal risk needs assessment, which determines the appropriate level of supervision. At the time of intake, the probation officer should ensure that the child and/or parent(s) are aware of all conditions that apply to the offender, particularly any protective conditions.

The probation officer should, as needed, report to others involved with the child (e.g. child protection social worker, police, Crown counsel, school, child care centre) all known significant changes in the situation, status or the whereabouts of the offender.

Where the child's safety may be at risk, the probation officer should advise the child and/or parent(s), police and child protection social worker as soon as possible.

Custody and releases from custody

While the accused is in remand or sentenced custody, Corrections Branch staff and youth custody centre staff should ensure that current or previous no-contact orders (contact by telephone or letter) are adhered to.

Pursuant to request under the *Victims of Crime Act*, Corrections Branch staff or youth custody probation staff should notify the child and/or parents of relevant information regarding sentence offenders, including the criminal's custodial status, institutional transfers, temporary or conditional release, and date of discharge.

Corrections personnel should notify police of any offender released from custody who is at risk of committing a sexual offence or another offence involving violence.

PART III – SUPPORT AND INTERVENTION SERVICES

Some of the services described in this section help build or rebuild the strengths of children and families. Others help reduce risk factors for children, families and communities.

This section also describes intensive interventions, including treatment, required by children and families should chronic or severe emotional or behavioural problems appear.

Early support and early intervention services

Regardless of the support a family is receiving, if you have reason to believe that abuse or neglect has occurred or is likely to occur, or that a child needs protection, as in Part II, you must report the situation immediately to a child protection social worker.

Early support and early intervention activities are designed for children and families who may be experiencing difficulty in having healthy, nurturing relationships. Just because a child or family needs these services, however, does not necessarily mean there is a danger of abuse or neglect.

The sooner a child or family gets the support they need, the better. Early intervention and support can keep a situation from deteriorating, and dramatically increase a family's chances of achieving stability. As soon as a family is identified or self-identifies, support and information should be provided.

Service responses frequently used in this approach include:

- parenting education, including child development, positive discipline techniques and stress reduction;
- home support – working intensively with parents in the family home;
- professional assessment, counselling and support;
- parent-to-parent support;
- respite care for parents – providing brief or periodic care for a child;
- child care;
- school counselling;
- alternative measures programs for young offenders; and
- support for adult children of substance misusers.

Services available in educational settings

Schools and post-secondary settings may offer such services as:

- counselling programs;
- safe school programs;
- safe campus programs at colleges and universities;
- assistance for families from various cultural backgrounds by multicultural workers;
- school meal programs;
- young parent programs, delivered in a school or linked with the school to help young parents obtain academic and life skills training, with child care provided; and
- early intervention and referrals by school-based substance abuse prevention workers.

Family support services

Families can find a wide range of support services. In some cases, you can request service on behalf of a family Services may include:

- Child care support programs - support, resources and referral services for child care providers and parents;
- arranging for child care;
- parenting education;
- respite services;
- home support worker assistance;
- a one-on-one child and youth counsellor who works with the child and their family and consults with the child's school;
- family counselling;
- assistance for aboriginal families by aboriginal support workers;
- assistance for immigrant families by settlement workers.

Services for children with disabilities and chronic health difficulties

Before an infant or other child with special needs leaves a hospital, hospital personnel should ensure that the parents have been referred to treatment and support services for assistance and that they know what to do in an emergency.

There are a variety of services which may be appropriate for children with disabilities or chronic health problems, and children at risk of developing such conditions. You can find these services through child development centres, family physicians or pediatricians, public health nurses, hospitals and associations for people with disabilities in your community. They may include:

- infant development programs;
- medical treatment;
- therapy to prevent further disabilities;
- respite care;
- special education;
- life-skills training;
- fittings for adaptive equipment;
- family support.

Intensive support and intervention services

A child who has developed chronic or serious difficulties because of abuse or neglect may need intensive support and intervention services. Services may include:

- emotional support;
- life-skills training;
- alternate care for the child;
- counselling;
- specialized sexual abuse counselling;
- treatment; and
- rehabilitation.

Services for children with serious emotional and behavioural problems

There may be a serious mental health concern about a child when abuse or neglect has been particularly harmful, long-standing or traumatic, or caused by someone in a trusted relationship. There may also be such a concern when the child or family is having significant difficulties in other areas that affect their well-being.

In these cases, assessment, treatment and/or behavioural management are recommended, and may be provided through child and youth mental health professionals, contracted community agencies or special programs in schools.

Mental health professionals can assess emotional or behavioural disturbance and recommend and provide the appropriate treatment. In some cases, they will recommend consultation with service providers and caregivers, either in combination with treatment by a mental health professional or on its own.

Community agencies offer specialized assessment and treatment services for children who have experienced sexual abuse where there are serious emotional or behavioural concerns. Specialized services for young children with sexual behaviour problems are available in some communities. Both these services are available through agencies under contract to the Ministry of Children and Family Development.

Services for children who witness abuse

Transition houses and other community agencies provide specialized individual and group counselling for children through Children Who Witness Abuse programs. These services help children cope with the trauma they experience. Support is also provided for the parent (usually the mother) who has experienced abuse by a partner. Children Who Witness Abuse programs are designed to help break the intergenerational cycle of violence against women.

Services for street youth

While services for street youth tend to be concentrated in urban centres, a number of smaller communities have also undertaken initiatives for this population. Services may include:

- safe houses;
- efforts to reconnect children with their families
- youth crisis lines;
- school- and street-based all-night recreation programs;
- street outreach workers;
- street outreach nurses;
- youth health clinics;
- needle exchange programs;
- programs for youth who have been sexually exploited; and
- pre-employment training programs.

Services for children and families experiencing substance misuse

Clinical and support services for adults who misuse alcohol and/or other drugs can help parents to strengthen their abilities to develop and sustain healthier families.

Substance misuse outpatient programs, which exist in most communities, assist those who wish to resolve problems related to their own or a family member's misuse of substances. Outpatient counsellors provide comprehensive assessment and treatment planning for individuals or family members, usually in the home community.

Many aboriginal communities are served by alcohol and drug counsellors employed by the band or tribal council through federal government funding. You can make referrals to residential treatment centres, specifically operated for aboriginal clients through provincial or federal alcohol and drug counsellors.

Many workplaces provide Employee and Family Assistance Programs (EAPs or EFAPs) to help employees and their families resolve personal problems such as those related to substance misuse. Counsellors in these programs can refer their clients directly to specialized and residential programs, while maintaining case management responsibilities.

Services for young offenders

Youth forensic psychiatric services are available to young offenders between the ages of 12 and 17. Referrals can only be made through the youth courts, Crown counsel, youth probation services, or custody centres. While inpatient assessment services are only available in the Burnaby Inpatient Assessment Unit, you can find outpatient assessment and treatment services in most B.C. communities. These include outpatient clinics, contracted agencies, mental health professionals or visiting travelling clinics.

Additional counselling, treatment, and supervision services are available in several communities for adolescent sexual offenders – many of whom are victims of abuse themselves – and for other offenders who have experienced family violence and are experiencing stress resulting from trauma.

Information for service providers

There are a variety of means through which service providers can increase their knowledge about responding to child abuse and neglect. They include:

- policies and manuals of various ministries and professional disciplines;
- child protection social workers;
- specialized interagency training for police, Crown counsel, victim services workers, child protection workers, educators and other service providers; and
- training for child care providers on prevention and responses to child abuse and neglect.

Contact your staff training personnel to find out what is available in your workplace.

PART IV – COLLABORATIVE PLANNING AND INFORMATION SHARING

Cooperating to address abuse and neglect

Service providers should listen to and work together with children and their families from the earliest opportunity, to establish goals and work toward their achievement. It is of critical importance that any agency's decisions regarding a child and family not be made in isolation from them or others involved with them. This collaborative approach should be taken as early as possible and continue as long as necessary.

Working together – who is involved in planning?

Everyone who is making decisions affecting the child and family – various professionals, advocates and community support agencies, as well as the child, family and others who provide care for the child – should be involved. They constitute the planning team.

If a child is aboriginal, the child protection social worker lets the parents know about services available through the aboriginal community. The social worker involves an aboriginal community in planning if:

- the parent or child with capacity asks for aboriginal community involvement;
- an aboriginal community is already involved; or
- the community is willing to become involved and the parent or child with capacity doesn't object.

If the parent or child with capacity objects to aboriginal community involvement, the child protection social worker does not involve the community if it would jeopardize an agreement with the family necessary to ensure the child's safety.

Everyone working with a child should work together, along with the child and family, to decide how to coordinate the services the child receives. When the issues the family faces fall mainly under the mandate of one particular program or organization, then you may decide to let that program or organization's representative take the lead. Of course, even if your organization has not taken the lead, you should still work closely with the others.

Your program or organization should develop local rules about:

- deciding who is responsible for child abuse and neglect cases;
- developing and implementing policies and procedures to be followed by all personnel, including requirements for reporting suspected abuse or neglect; and
- developing and maintaining clear lines of communication and responsibility with the other agencies involved, both in the immediate community and with referral institutions elsewhere.

The role of the planning team

As a member of the planning team, your job includes:

- helping assess any possible risks for the child;
- assessing the strengths and needs of the child and family;
- planning action, including services to be provided, to build on strengths and address needs;
- ensuring the delivery of those services and monitoring them to ensure they meet the needs of the child and family;
- identifying any gaps in service and addressing them as far as possible;
- evaluating services and, where appropriate, making recommendations for improvement; and
- deciding when and how to close or transfer the file of the child and family.

Factors in collaborative planning

The factors you consider when planning services can vary depending on circumstances. For instance, if there are no child protection concerns, planning will likely be different than when a child protection investigation is under way.

Information sharing, confidentiality and the law

Throughout this handbook, reference is made to the need for a collaborative response to child abuse and neglect. Sharing and coordinating information are vital parts of this response. This means that personal information (including confidential), whether recorded or not, may be shared among service providers, clients and various public bodies, under specific circumstances and in accordance with various statutes.

Information about children and families collected by most provincial government employees and public bodies is governed by the *Freedom of*

Information and Protection of Privacy Act. Along with the *Document Disposal Act*, which all ministries are subject to, the *Freedom of Information and Protection of Privacy Act* governs:

- when personal information can be collected and recorded;
- what the recorded personal information can be used for;
- when, to whom and for what purpose personal information in records can be disclosed;
- how personal information in records must be stored;
- when personal information in records can be disposed of.

If you have questions regarding confidentiality and disclosure of information consult with legal services or the appropriate government information and privacy branch. There may also be other provincial legislation that applies to information in the custody or control of a public body which must be read together with the *Freedom of Information and Protection of Privacy Act*.

Information collected by child protection social workers under the *Child, Family and Community Service Act* is not governed by the *Freedom of Information and Protection of Privacy Act*. Instead, the *Child, Family and Community Service Act* establishes its own laws about confidentiality and disclosure. These laws are intended to address the specific information concerns that arise in the context of child protection and preventive service work.

Information obtained as a, result of the operation of, or court order under, the *Youth Criminal Justice Act* (Canada), is governed by that act.

Sharing of information obtained and retained by the RCMP is governed by the *Privacy Act* (federal) and personal information can be disclosed by RCMP personnel in accordance with that legislation, including when doing so is consistent with the purpose for which the information was gathered.

Information sharing by service providers

Information sharing is an important element of collaboration in the response to child abuse and neglect, and of providing integrated service to children and families. There are various ways that service providers can share information about children and families, including protocols developed in accordance with applicable legislation for this purpose.

Child protection reports and investigations

The *Child, Family, and Community Service Act* requires every person, whether or not they are part of a public body, who has a reason to believe that a child needs protection, to promptly report the matter to a child protection social worker.

The child protection social worker may report the results of a child protection investigation to the child, if they are capable of understanding the information, unless:

- a criminal investigation is underway or contemplated; or
- it is the director's opinion that providing the information would cause physical or emotional harm to any person or endanger the child's safety.

The *Child, Family and Community Service Act* requires child protection social workers to report the results of a child protection investigation to the parent apparently entitled to custody of the child and to the person who made the report, unless:

- a criminal investigation is underway or contemplated; or
- it is the director's opinion that providing the information would cause physical or emotional harm to any person or endanger the child's safety.

The child protection social worker may also advise others involved if necessary to ensure the safety and well-being of the child.

Information sharing by service providers who are within public bodies

(a) Child protection social workers' right to necessary information held by public bodies

Under the *Child, Family and Community Service Act*, child protection social workers have a right to information in the custody or under the control of public bodies if the information is necessary for the social worker to do their job. This right overrides the *Freedom of Information and Protection of Privacy Act* and any other provincial legislation. It does not override federal legislation, including the *Youth Criminal Justice Act*, or solicitor/client privilege.

Where possible, child protection social workers respect and comply with any concerns or recommendations from the public body about the use of and further sharing of the information.

(b) Information sharing with consent and involvement in decision making

In keeping with the principle that people should be encouraged to participate in decisions that affect them, it is preferred that information about people be shared with their consent. Involving people in decisions that affect them, whether at a case conference or in individual discussions, leads to better, more lasting decisions. Obtaining consent to disclose also provides an opportunity to verify the accuracy of information. Child protection social workers under the *Child, Family and Community Service Act* and public bodies under the *Freedom of Information and Protection of Privacy Act* can release information about a person when that person consents and completes the proper form.

Under provincial legislation, certain children have the right to consent to disclosure of information about themselves:

- Under the *Child, Family and Community Service Act*, a child 12 years of age or over has a right of access to *Child, Family and Community Service Act* records that contain information about the child, and can consent to the disclosure of that information without anyone else's approval.
- Under the *Freedom of Information and Protection of Privacy Act*, a child with capacity has a right of access to his or her own personal information and can consent to the disclosure of that information without anyone else's approval.
- Both acts permit specified persons to consent to the disclosure on behalf of a child where the child lacks the capacity to do so.

(c) Sharing information without consent

In the context of a collaborative response to child abuse and neglect, the primary objective of sharing information about children and families is to ensure the safety and well-being of a child. There may be situations where seeking or obtaining consent to share information is not possible or appropriate. Where information is shared without the consent of the person involved, he or she should, where appropriate, be informed that the information has been shared.

The *Child, Family and Community Service Act* applies to child protection social workers. All other service providers who are within public bodies disclose information without consent under the *Freedom of Information and Protection of Privacy Act*.

Section 79(a) of the *Child, Family and Community Service Act* allows child protection social workers to disclose information to service providers without consent where it is necessary to ensure a child's safety or well-being.

Examples of information sharing necessary for ensuring the child's safety include circumstances where the child protection social worker is:

- assessing information in a report about child abuse or neglect;
- conducting a child protection investigation;
- taking charge of a child;
- providing police with information related to a criminal investigation involving child abuse or neglect;
- assisting another person in protecting a child;
- making or helping to make decisions about the care and custody of a child and about access to a child; or
- providing a family court counsellor with information required for the completion of a custody or access report.

Examples of information sharing necessary for ensuring the child's well-being include circumstances where the child protection social worker is:

- planning or participating in planning for a, child in care; or
- developing or implementing a support services agreement to protect a child.

The child protection social worker determines whether to disclose and to what extent to disclose by considering the following: the child's view and sense of safety;

- the child's needs and circumstances;
- whether the disclosure will assist in protecting the child from abuse, neglect, harm or threat of harm; and
- whether it is possible to obtain consent in a timely manner.

Section 33(c) of the *Freedom of Information and Protection of Privacy Act* allows public bodies to disclose personal information without consent when disclosure is:

- for the purpose for which the information was obtained or compiled; or
- for a purpose that has a reasonable and direct connection to that purpose and is essential to the work of the public body that uses or discloses the information.

Other parts of Section 33 provide disclosure guidelines in other circumstances. In particular, Section 33(p) sets out the rules respecting the disclosure of information in compelling circumstances affecting anyone's health or safety, including that of a child.

Information sharing by service providers who are not within public bodies

Information held by service providers who are not public bodies is not subject to the *Freedom of Information and Protection of Privacy Act* unless required by the terms of a contract. Information sharing by these service providers may be governed by other legislation or by professional regulations (e.g. codes of ethics, codes of conduct or policies).

Service providers who are not public bodies and may not be subject to the *Freedom of Information and Protection of Privacy Act* may include, but are not limited to:

- most community-based service agencies (such as transition houses, sexual assault centres, specialized victim services, neighbourhood houses and family service agencies);
- child care providers;
- private psychologists; and
- physicians.

Service providers who are not public bodies should contact their regulatory body, association, contract manager or appropriate organization or network for further information about this topic.

Information sharing with aboriginal communities

Sharing information is a cornerstone of collaborative service delivery. In order for Aboriginal people to have meaningful involvement in planning and delivering services for Aboriginal children, it is important for child protection social workers to share information with representatives of Aboriginal communities where provided for under the *Child, Family and Community Service Act*.

Where an Aboriginal child is the subject of court proceedings under the *Child, Family and Community Service Act*, a designated representative of the child's Indian band or Aboriginal community may become a party to the proceedings. This entitles the designated representative to receive information that is required to be disclosed in court proceedings under the *Child, Family and Community Service Act*. Aboriginal band and community representatives are listed in schedules 1 and 2 of the *Child, Family and Community Service Act* regulations.

In cases where a child protection social worker is providing services for an Aboriginal child or family, information can be shared with the child's Aboriginal community with consent (see *Information sharing with consent and involvement in decision-making*).

In cases where seeking or obtaining consent is not possible or appropriate, the child protection social worker may share information with members of the child's Aboriginal community where it is necessary to ensure the safety or well-being of a child (see *Sharing information without consent*).

In some areas of the province, the director has delegated authority to employees of Aboriginal Child and Family Service agencies. (See Appendix B for a list of Aboriginal Child and Family Service agencies which have employees with delegated authority). In these situations, the child protection social worker shares information with the delegated employee of the Aboriginal agency in the same manner as for a child protection social worker within the Ministry of Children and Family Development.

All information shared with employees of Aboriginal Agencies with delegated authority is subject to the *Child, Family and Community Service Act*. Those employees, therefore, cannot share information except as provided for in the act.

In situations where employees of an Aboriginal agency do not have delegated authority, the child protection social worker determines whether an agreement or protocol with the agency exists, and shares information based on that agreement or protocol, subject to the confidentiality provisions of the *Child, Family and Community Service Act*.

PART V – PROMOTING WELL-BEING AND PREVENTING ABUSE AND NEGLECT

There is no better way to deal with child abuse and neglect than to stop it before it happens. That way the harm to a child is never done and – especially when we promote healthy relationships – the family involved can become a stronger, more nurturing place in which to grow.

All parents face challenges from time to time in bringing up their children. That is when prevention services are of the most importance in helping families learn to cope with problems and issues.

To be effective, promotion and prevention activities acknowledge different needs and concerns children have at various ages and developmental stages. And, as with other responses to child abuse and neglect, promotion and prevention measures are most effective when they are developed and delivered in a collaborative manner, involving families and communities, as well as service providers from all sectors – education, health, justice, child care, social services and recreation.

Four principles that guide promotion and prevention initiatives area:

- support the building of capacities of individuals, families and communities;
- enable people to take control of their health and social well-being;
- focus on the underlying factors and conditions that affect health and social well-being; and
- develop policies that support the well-being and safety of all children.

We will look first at ways to promote children's well-being, and then at specific ways of preventing child abuse and neglect.

Promoting children's well-being

We can promote children's well-being on two levels: making society a better place for children, and making families and relationships healthier for children.

There is a wide range of activities. We can undertake to tackle society-wide causes of abuse and neglect through program development and activities such as programs to reduce child poverty, measures to stop discrimination, initiatives to strengthen a community's self-reliance and participation, and advocacy to persuade decision-makers to improve the services that help children and families.

We can also work at a more direct, immediate level to promote healthy relationships and encourage effective parenting skills. These activities focus on every stage of a child's development.

This kind of wellness promotion begins even before the child is born by providing information, community-based services and family-friendly environments to promote effective family planning, healthy pregnancies and early child care.

Other activities aim to increase the capacities of families to provide their children with a nurturing and caring environment through support activities for parents, such as child care, parent-to-parent support activities, and parent education activities.

People working with children aim to create environments in which all children have the opportunity to reach their potential and become lifelong learners and healthy productive citizens. And, as children grow toward adulthood, we can strive to promote the healthy development of youth with peer-involvement initiatives, social networks and opportunities for youth to participate in creating a healthy community.

Preventing child abuse and neglect

While we would all hope such programs could eliminate abuse and neglect, the reality is that more direct action is still needed – action that improves protection and decreases risk factors for children, families and communities.

Such direct prevention activity includes support activities, awareness raising, education, advocacy and ensuring children's safety in settings inside and outside the home. In order to be effective, these activities should:

- be collaborative and integrative;
- support and involve children and families;
- strengthen the environments in which children and families live; and
- be sensitive to the issues of diversity and inclusiveness.

Providing additional support

Some children and families need more support than others, often because of factors that increase the risk of abuse or neglect. Services and activities are available to help them cope. They include:

- providing support for children with a variety of needs, through such initiatives as infant development programs, supported child care special educational services, counselling services, respite services and recreation services;
- helping ensure healthy babies by preventing problems such as poor prenatal nutrition or the misuse of alcohol or other drugs during pregnancy;
- helping parents with limited resources to find affordable housing, quality child care, recreational opportunities for their children, proactive counselling and preventive health services in their communities;
- providing respite and home care services for parents with few resources or little support; and
- encouraging the development of peer support groups and networks of parents, in order to build parents' capacity to provide caring and nurturing environments.

Developing awareness

Awareness and information can be powerful allies in fighting abuse and neglect. Prevention activities include raising awareness among children, parents, service providers and the public about:

- the difference between physical abuse and discipline, and between appropriate and inappropriate sexual behaviour;
- alternatives to corporal punishment;
- standards of care for children in Canada;
- ways to nurture healthy child development;
- the possible effects on children of all forms of sexual abuse and inappropriate sexual behaviour; and
- how to find resources to assist in parenting and promote the optimum healthy development of children.

Many kinds of parenting and child care classes and workshops are offered throughout the province by public health staff, child and youth mental health staff, school district staff, child care support programs and numerous community-based agencies, community colleges, and volunteer groups.

Children and youth

Many resources and programs are geared to developing the awareness and skills of children and youth. Police/school liaison officers deliver education programs designed to "street-proof" children and prevent child abuse and neglect.

Some programs are specialized; for example, helping children and youth with disabilities become more aware of healthy sexuality and sexual abuse prevention. Others examine issues around dating violence, provide youth with information on birth control, and offer a safe haven for children to help address "stranger danger".

School-based prevention education

British Columbia has mandatory personal safety curriculum for all students in the province, and it is a graduation requirement. *Personal Planning* (K-7) and *Career and Personal Planning* (8-12) are designed to help students acquire the knowledge, attitudes and skills needed to lead healthy and productive lives. Areas covered are:

- healthy living;
- mental well-being;
- family life education;
- child abuse prevention;
- substance misuse prevention; and
- safety and injury prevention.

Advocacy

Another way to prevent abuse and neglect is to advocate to try to ensure, on a case-by-case basis, that the children and families you are involved with get the services they need.

Service providers often advocate on behalf of children and their parents informally, for example, in team meetings, and in promoting the development of appropriate services.

As well, the following bodies provide advice to people seeking information or who have concerns about service:

- The *Office for Children and Youth* provides children, youth and their families with information and guidance on becoming effective self-advocates in light of the rights of children and youth in care under the *Child, Family and Community Service Act* (CFCSA). The Office also provides advice to children, youth and their families about how they can effectively access services that meet their needs. In extraordinary

circumstances, the Office for Children and Youth advocates on behalf of children and youth to ensure that their views are heard and considered.

- The *Ombudsman* responds to complaints that a decision affecting a child, youth or family made by a government worker seems unfair, illogical or against the rules.
- The *Public Trustee* responds to concerns by children or youth regarding the use of their assets by others, their rights in legal proceedings, and contracts being made on their behalf.
- The *British Columbia Family Advocate* appointed by the Attorney General under the *Family Relations Act* may intervene at any stage of a legal proceeding involving a child, to act as counsel for the interests and welfare of the child.

Reviews and Monitoring

The Office for Children and Youth carries out the following functions:

- provides support for children, youth and their families by providing government with advice on the effectiveness, responsiveness and relevance of services for children, youth and their families;
- monitors services provided for children and youth including, services provided under the *Child, Family and Community Service Act* and the *Adoption Act*, early childhood development and care services, mental health services for children and youth, addiction services for children and youth, youth justice services, and planning for transition from youth and adult services;
- provides government with policy and best practice advice;
- conducts investigations at the request of the Attorney General;
- informs the public about the state of services for children and youth in British Columbia.

Conduct of service providers

The provincial government has recently taken measures under the *Criminal Records Review Act* to protect children. There are now procedures for reviewing the criminal records of people who have access to children as part of their employment with the provincial government or a provincial government agency, educational institution, child care setting, hospital or other agency that receives funding or licensing from the provincial government.

The goal is to reduce the likelihood that people with relevant criminal records could occupy positions of trust with children.

The province is also helping other employers to develop these procedures for employees who have unsupervised access to children. The act provides that any professional licensing body whose members provide services for children have a criminal record review as a condition of licensure.

Professional associations and regulatory bodies strive to prevent child abuse and neglect by their members through professional codes of conduct. Some government agencies provide information to their contracted service providers and other community-based organizations about safeguarding children through careful recruitment and monitoring of staff and volunteers.

Further information

You can find further information on promotion and prevention activities through the following resources:

- Affiliation of Multicultural Societies and Service Agencies of B.C.: 604 718-2777
- British Columbia Council for Families: 604 660-0675
- British Columbia Aboriginal Network on Disability Society: 250 381-7303
- British Columbia Association of Aboriginal Friendship Centres: 250 388-5522
- Criminal Records Review, Security Programs Division, Ministry of Attorney General: 250 387-6981 in Victoria, and 604 660-2421 in Vancouver
- Enquiry B.C. (can transfer a call to the appropriate source for information on specific programs delivered or funded by the provincial government): 604 660-2421 in Vancouver, 250 387-6121 in Victoria, or 1 800 663-7867 from other locations in the province.
- First Nations Summit – Child Welfare Committee: 604 990-9939
- Justice Institute of B.C. (for training programs for criminal justice, aboriginal, health, counselling and community agency staff) 604 525-5422; TDD/TTY 604 528-5655
- La Societé des Enfants Michif (Metis Family Services): 604 584-6621

- Ministry of Children and Family Development After Hours Response Teams (for information on family support services and child protection):

  604 660-4927 in Vancouver (serving Vancouver, Richmond, West Vancouver, North Vancouver, Vancouver International Airport, Lions Bay and Bowen Island)

  604 660-8180 in the Lower Mainland (serving Aldergrove, Burnaby, Coquitlam, Delta, Ladner, Langley, Maple Ridge, New Westminster, Pitt Meadows, Port Coquitlam, Port Moody, Surrey and White Rock)

  1 800 663-9122 from other locations in the province

- National Clearing House on Family Violence, Family Violence Prevention Division, Health Canada, 1 800 267-1291 (publishers of Sexual Abuse Information Series for Children, Teens and for Partners of Sexual Abuse Victims)
- Prevention Source B.C. (prevention of alcohol and drug misuse): 604 874-8452 in the Lower Mainland, or 1 800 663-1880 from other locations in the province
- Provincial Prostitution Unit, Ministry of Attorney General, SAFE Line: 1 888 224-SAFE or 604 660-7233 in Vancouver
- Public health services – see listings in blue pages (for information from public health nurses on healthy child development, prevention, promotion and parenting support)
- Red Cross Abuse Prevention Services: 604 709-6600
- Sexual Health Resource Network (material on sexuality education and sexual abuse, targeted to the needs of children and youth with disabilities): 604 434-1331, ext. 335 in the Lower Mainland, or 1 800 331-1533
- Society for Children and Youth of British Columbia, Resources on Children's Rights: 604 433-4180
- Stopping the Violence Branch, Minister of State for Women's Equality: 250 356-9340
- Youth Against Violence: 1 800 680-4264
- United Native Nations: 604 688-1821, or 1 800 555-9756
- Vancouver Aboriginal Child and Family Services Society: 604 872-6723
- Vancouver Lower Mainland Multicultural Family Support Services Society: 604 436-1025
- Victim Services Division, Community Justice Branch, Ministry of Attorney General, 604 660-5199 (Child Sexual Abuse Victim Service Worker handbook)

Conclusion – looking ahead

The development of this handbook is part of the response to abuse and neglect embodied in the new child protection legislation which came into force in British Columbia in 1996, and the subsequent restructuring of government services for children and families.

If there is a single key theme to that reorganization, and to this handbook, it is the importance of collaboration.

Working together collaboratively builds better relationships among all those in contact with children, families and service providers. It means sharing appropriate information among child-serving agencies and organizations, as permitted by applicable legislation. It means cooperating in developing plans and providing services. And, it means the prompt reporting of suspected child abuse or neglect. We are all part of a coordinated province-wide effort aimed at reducing child abuse and neglect.

This kind of collaboration makes good sense for day-to-day operations. It knits together service providers in every part of British Columbia, from every discipline, into a supportive network to protect the children of this province.

Although it is challenging, there is a deep sense of satisfaction to be gained in overcoming challenges and delivering the best service possible to children and families.

There is reason for hope as we enter the next century. British Columbians are becoming more aware of how to prevent and intervene appropriately to stop child abuse and neglect. Our effective response can assist children in British Columbia to grow up safe and healthy.

Appendix A

Quick Reference: General Directory for Government Services

Quick Reference: General Directory for Government Services

Call Enquiry BC for any questions you may have regarding provincial government services.

In Victoria call 250 387-6121
In Vancouver call 604 660-2421
From elsewhere in B.C. call 1 800 663-7867

Ministry of Children and Family Development After Hours Line:

For emergencies outside office hours (usually 8:30 a.m. - 4:30 p.m., Monday to Friday), call the ministry's 24-hour After Hours Line:
In Vancouver, the North Shore and Richmond, call 604 660-4927
In the Lower Mainland from Burnaby and Delta in the west to Maple Ridge and Langley in the east, call 604 660-8180
From elsewhere in B.C. call 1 800 663-9122

Alcohol and Drug Information and Referral Service
Ministry of Children and Family Development

In the Lower Mainland call 604 660-9382
From elsewhere in B.C. call 1 800 663-1441

Office for Children and Youth

In Victoria call 250 356-0831
From elsewhere in B.C. call 1 800 476-3933

Child Protection Services Unit
B.C.'s Children's Hospital

Call 604 875-2345
(Provides medical diagnosis and consultation to professionals in cases of child abuse or neglect. Also provides crisis counselling for parents and a follow-up clinic for abused children.)

Helpline for Children

To report abuse or neglect, dial 0 and ask the operator for 310-1234

Ombudsman

In the Victoria area call 250 357-5855
From elsewhere in B.C. call 1 800 567-3247

Prevention Source BC

Provides information on the prevention of alcohol and drug misuse.

In the Lower Mainland call 604 874-8452

From elsewhere in B.C. call 1 800 663-1880

Public Trustee

In Vancouver call 604 660-4444

From elsewhere in B.C. call 1 800 663-7867

Victims Information Line

Ministry of Attorney General

Call 1 800 563-0808

Appendix B

Aboriginal Child, Family and Community Service Agencies

ABORIGINAL CHILD, FAMILY AND COMMUNITY SERVICE AGENCIES

The following Aboriginal agencies have full delegated authority from the Director of Child, Family and Community Service to provide services including child protection, guardianship, support services and resource development:

- Lalum'utul Smun'eem Child and Family Services
  Phone: 250 746-1002
- Nlha'7kapmx Child and Family Services
  Phone: 250 455-2118
- Northern Shuswap Family and Children's Services
  Society (aka Knucwentwecw) Phone: 250 392-2995
- Nuu-Chah-Nulth Community and Human Services
  Phone: 250 724-3232
- Scw'exmx Child and Family Services
  Phone: 250 378-2771
- Xolhmi:lh Child and Family Services Program
  Phone: 604 858-0113

The following Aboriginal agencies have guardianship, support service and resource development authorities delegated to their staff by the Director of Child, Family and Community Service:

- Ayas Ayas Men Child and Family Services
  Phone: 604 985-4111
- Carrier Sekani Family Services
  Phone: 250 562-3591
- Ktunaxa-Kinbasket Family and Child Services
  Phone: 250 489-4563
- Kwumut Lelum Child and Family Services
  Phone: 250 246-3336
- Metis Family Services
  Phone: 604 584-6621
- Nisga'a Family and Child Services
  Phone: 250 633-2601
- Sechelt Child and Family Services
  Phone: 604 885-9404
- Vancouver Aboriginal Child and Family Services Society
  Phone: 604 872-6723

The following Aboriginal agencies have delegated authority from the Director of Child, Family and Community Service to provide support services and resource development:

- Gitxsan Child and Family Services Society
  Phone: 250 842-2258
- Heiltsuk Kaxla Child and Family Service Program
  Phone: 250 957-4325
- Lake Babine Family and Child Services
  Phone: 250 692-4700
- Nil/Tu'o Child and Family Services
  Phone: 250 744-1422
- Northwest Inter-Nation Family Services Society
  Phone: 250 638-0451
- Secwepemc Child and Family Services
  Phone: 250 314-9669

The following Aboriginal agencies are in start-up and have an agreement with the Director of Child, Family and Community Service to work towards delegated authority:

- Nezul Be Hunuyeh Child and Family Services
  Phone: 250 996-7171

  There are additional Aboriginal organizations that are in various stages of planning. For an update please contact Services to Aboriginal Children and Families at 250 387-3010.

Appendix C

Summary of the Law with Respect to Child Abuse and Neglect

SUMMARY OF THE LAW WITH RESPECT TO CHILD ABUSE AND NEGLECT

The *Child, Family and Community Service Act*

Overview

This legislation emphasizes the primacy of children's entitlement to be safe from harm. The paramount consideration of the act is the safety and well being of children. The act recognizes that a family environment is preferred for child-rearing, as long as the child is safe. It also recognizes that parents are primarily responsible for protection of their children and authorizes government intervention when family protection breaks down. The act allows provincial authorities to intervene when a child may be in need of protection.

The *Child, Family and Community Service Act* not only applies to children under the age of 19 years who may be in need of protection, but also has special provisions that focus on the needs of youths between the ages of 16 and 19 and young adults between the ages of 19 and 24.

Determining when a child is in need of protection

The act states that a child needs protection:

a. if the child has been, or is likely to be, physically harmed by the child's parent;

b. if the child has been, or is likely to be, sexually abused or exploited by the child's parent;

c. if the child has been, or is likely to be, physically harmed, sexually abused or sexually exploited by another person and if the child's parent is unwilling or unable to protect the child;

d. if the child has been, or is likely to be, physically harmed, because of neglect by the child's parent;

e. if the child is emotionally harmed by the parent's conduct;

f. if the child is deprived of necessary health care;

g. if the child's development is likely to be seriously impaired by a treatable condition and the child's parent refuses to provide or consent to treatment;

h. if the child's parent is unable or unwilling to care for the child and has not made adequate provision for the child's care;

i. if the child is or has been absent from home in circumstances that endanger the child's safety or well-being;

j. if the child's parent is dead and adequate provision has not been made for the child's care;

k. if the child has been abandoned and adequate provision has not been made for the child's care;

l. if the child is in the care of a director or another person by agreement and the child's parent is unwilling or unable to resume care when the agreements is no longer in force.

For the purpose of subsection (1)(e), a child is emotionally harmed if they demonstrate severe:

- anxiety;
- depression;
- withdrawal; or
- self-destructive or aggressive behaviour.

For the purpose of subsection (1)(b) and (c) and section 14(1) but without limiting the meaning of "sexually abused" or "sexually exploited." A child has been or is likely to be sexually abused or sexually exploited if the child has been, or is likely to be:

(a) encouraged or helped to engage in prostitution, or
(b) coerced or inveigled into engaging in prostitution.

Administration of the act

The director is responsible for:

- assessing all reports;
- where required, investigating to determine whether a child may need protection;
- intervening when a child needs protection.

A director can delegate any or all of their powers under the act to child protection social workers. Under the act, police officers are authorized to provide various forms of assistance to the director in carrying out the child protection mandate.

Duty to report

The act imposes a duty on any person who has reason to believe that a child needs protection to promptly report the matter to a director or a person delegated by the director. Failure to report in these circumstances or knowingly reporting false information constitutes an offence under the act punishable by a fine of up to $10,000 or, imprisonment for up to six months, or both.

Response to a report

When the director receives a report, they must assess the information in the report and may offer support services to the child and family, refer the child and family to a community agency, or investigate the child's need for protection.

Some of the less disruptive options for the family available to the director are:

- agreements for support services or for the child to be cared for outside the home;
- applying to the court for an order prohibiting contact between the child and another person if there are reasonable grounds to believe that the other person would cause the child to need protection;
- obtaining an order for a child to receive essential health care;
- arranging for someone to look after the child for a period of up to 72 hours where the child is lost, has run away, or is found without adequate supervision
- providing homemaker services for a period of 72 hours where the child is found without adequate supervision

A director may remove a child if the child needs protection and there is no less disruptive means of protection, or if the child is in immediate danger. If a child is lost or has run away, a director may also take charge of a child and provide safety for a period of up to 72 hours.

Family participation

Throughout the act, family and, where applicable, the community is encouraged to take responsibility by making decisions and plans for children. The act provides for alternative dispute resolution mechanisms to try and agree on an arrangement that will protect the child. The legislation attempts to keep cases out of court by providing many options both before and after removal of children from their parents.

Accountability provisions

The act provides for accountability through an administrative review of the exercise of the director's powers, duties and function under the act.

The *Freedom of Information and Protection of Privacy Act*

Public access to information

This act gives the public a right of access to records held by a public body, including personal information about themselves, and specifies the limited exceptions to these rights of access (e.g. where there would be an unreasonable invasion of another person's personal privacy). The act also gives individuals a right to request the correction of personal information about themselves, and prevents the unauthorized collection, use or disclosure of personal information by a public body.

Sharing information with the public

Increasingly, there are situations where a public body has information in its possession that it needs to disclose in order to protect children. The *Freedom of Information and Protection of Privacy Act* place limits on the ability of public bodies to disclose personal information. The ability to disclose personal information within a public body, to another public body or to the public will depend on the particular circumstances. For example, if there are compelling circumstances affecting a child's safety, or if disclosure of the information is for the purpose for which it was obtained for a consistent purpose, the *Freedom of Information and Protection of Privacy Act* allows disclosure. (Note that in cases of compelling circumstances, the act requires notice of the disclosure to the person the information is about, and in the case of disclosure for a consistent purpose, the *Freedom of Information and Protection of Privacy Act's* definition of "consistent use" must be met.)

Where a public body has information about a significant risk of harm to the safety of the public or a group of people, the *Freedom of Information and Protection of Privacy Act* imposes a duty on the head of that public body to disclose the information without delay to the public, the affected group of people, or an applicant. This overrides any consideration about privacy of individuals the information is about. This duty rarely arises, but could arise, for example, where a sexual offender is going to be released into the community and there is a significant risk that the individual will re-offend. (Here, too, there are notice requirements.)

Information held by federal government agencies such as the RCMP and Corrections Canada or information collected in the administration of federal acts such as the *Youth Criminal Justice Act* are governed by the federal *Privacy Act*.

Protecting the privacy of children

The act also provides for regulations that protect children's privacy. The right to access records and personal information can be exercised on behalf of a person under 19 years of age by the individual's parent or guardian, only

if the individual is incapable of exercising those rights. This has been interpreted as restricting the access to information about a child to only the legal parent or guardian. In light of this regulation, then, in the case of a child without capacity who is in the legal care of the director under the *Child, Family and Community Service Act*, the child's natural parents would be unable to act in place of the child under the *Freedom of Information and Protection of Privacy Act* to obtain information about the child from a public body. However, the natural parents would be in the same position as any other applicant under the *Freedom of Information and Privacy Act* and may be able to obtain some information about the child from a public body if it would not be an unreasonable invasion of the personal privacy of the child, but this does not extend to child protection information held by the Ministry of Children and Family Development.

Relationship to the *Child, Family and Community Service Act*

The *Child, Family and Community Service Act* provides that the *Freedom of Information and Protection of Privacy Act* does not apply to a record made under the *Child, Family and Community Service Act* and in the custody or control of a director, or to information in that record. Accordingly, any information that is in the custody and control of a director and was made under the *Child, Family and Community Service Act* is not subject to the provisions of the *Freedom of Information and Protection of Privacy Act*. The *Child, Family and Community Service Act* provides a comprehensive scheme for access to information in the control of the director and protection of the confidentiality of this information.

The *Criminal Records Review Act*

This act is designed to prevent the physical and sexual abuse of children. Individuals who work with children or who may have unsupervised access to children in the course of employment and who are employed by the government, a school board or independent school, are members of a professional association listed in the act, or received operating funds from the government, must undergo a criminal records check. The act also requires a criminal record check for unlicensed child care providers. Individuals who have a criminal record for relevant offences listed in the act undergo an adjudication process to determine if they present a risk to children.

Legislation Governing Educational Settings

The *Teaching Profession Act*

The purpose of this act is to establish the College of Teachers and to enable it to set standards for teacher education and for teachers' professional conduct and competence. To ensure compliance, the college controls the certification of teachers and the issuance of teaching certificates. To teach in the public school system in British Columbia, a teacher must be a member of the college and hold a certificate of qualification issued by the college.

School principals, vice-principals, directors of instruction, superintendents and assistant superintendents must also be college members and hold teaching certificates.

A person will not be admitted to membership unless they meet the standards of qualification and standards of fitness established by the college, and satisfy the college that they are of good moral character and otherwise fit and proper to be granted membership. If a person fails to authorize a criminal record check under the *Criminal Records Review Act*, the college will not admit that person to membership. If an adjudicator under the act has determined that a person presents a risk of physical or sexual abuse to children, the college must review the application or registration and take appropriate action. The college must also notify the registered member's employer.

The college has the jurisdiction to inquire into the conduct or competence of any member or former member where a complaint or report has been received by the college regarding that person. If a member is found to be incompetent or guilty of misconduct, the college can:

- reprimand the member;
- suspend the membership and certificate of qualification of the member; or
- terminate that person's membership and cancel his or her certificate of qualification.

If a former member is found guilty of misconduct, the college will take actions similar to those taken against a member.

The *School Act*

This act provides authority for a school board to dismiss, suspend or otherwise discipline an employee for just and reasonable cause. If a superintendent of schools is of the opinion that the welfare of students is threatened by the presence of an employee, the superintendent may suspend the employee. The school board has the power to confirm, vary or revoke that suspension. The College of Teachers must be notified immediately if a board dismisses, suspends or otherwise disciplines a member of the college. If an employee is a member of the College of Teachers and that person resigns, the school board must notify the college of the circumstances of the resignation, if the board feels it is in the interest of the public to do so.

The *School Act* also requires children between six and 16 years of age to be enrolled in school and to be participating in an educational program at a school. Alternatively, a child may be educated at home, but that child must be registered with a school. The superintendent of schools is required to investigate reports of home schoolers who are not registered with schools as home schoolers, and those who may not be receiving an educational program.

Individual school boards may make rules:

- establishing codes of conduct for students attending educational programs operated by or on behalf of the board;
- regarding the suspension of students and the provision of educational programs for suspended students;
- regarding attendance of students in educational programs.

Boards must continue to make an educational program available to students who have been suspended. An administrative officer of a school and a superintendent of schools have the authority to suspend a student in accordance with the rules established by a board.

The *Independent School Act*

Within the independent school system, teachers are certified under either the *Teaching Profession Act* or the *Independent School Act*. Under the *Independent School Act*, the Inspector of Independent Schools has the authority to issue teacher certification restricted to independent schools and to suspend or revoke certification for cause. Independent school authorities must report, without delay, the reason for any teacher's dismissal, suspension or disciplinary action and any resignation in which circumstances are such that it is in the public interest to do so. All such reports are directed to the Inspector of Independent Schools, and to the College of Teachers when the teacher involved is a member of the college. The provisions of the *Criminal Records Review Act* apply to independent school authorities.

The *College and Institute Act*

This act provides the province with the power to designate a college and university college and to designate a provincial institute. A college, university college and institute become a corporation upon designation. The province appoints the majority of the members to the boards to govern, manage and direct the affairs of the institutions. Each board must appoint a president, who is also the chief executive officer, to supervise and direct the staff of the institution. The president may, for just cause, suspend an employee or student of the institution. Where a suspension occurs, the president must make a report to the board immediately.

The *Institute of Technology Act*

This act establishes the British Columbia Institute of Technology (BCIT). BCIT is also governed by a board made up of a majority of provincially appointed members. A president is appointed and the duties of the president include the supervision of the staff of the institution. Where a suspension occurs, the president must make a report to the board within 48 hours.

The *Open Learning Agency Act*

This act establishes the Open Learning Agency as a corporation to collaborate with universities, institutions, school boards and other agencies concerned with education. The Open Learning Agency is governed by a provincially appointed board that appoints a president, who is also the chief executive officer of the agency. It is the responsibility of the president to appoint officers and hire employees.

Other legislation pertaining to post-secondary institutions

The *University Act*, the *Royal Roads University Act*, and the *University of Northern British Columbia Act* all govern the operation of the public universities in British Columbia. The governing structure of each university includes a president whose duties include recommending appointments, promotions and removal of professors, members of administrative staff and officers, and other employees of the university.

Exemption for post-secondary institutions

Post-secondary education institutions are exempt from the requirements of the *Criminal Records Review Act*.

The *Community Care Facility Act*

This legislation provides for the licensing of community care facilities including child care and child/youth residential facilities. The Director of Licensing or a delegated medical health officer may attach terms or conditions to or suspend or cancel the license of a community care facility where there are reasonable grounds to believe that the health or safety of persons cared for at the facility is at risk. In addition, the Director of Licensing or delegate has authority to certify early childhood educators as well as suspend or cancel their certifications.

The Minister of Health or delegated health authority may, where there are reasonable grounds to believe that the health or safety of persons cared for at the facility is at risk because of an act or omission of staff, appoint an administrator to operate the facility for a specified period.

The medical health officer is required to investigate every application for a license to operate a community care facility and to investigate every complaint that a facility is being operated inappropriately. The investigation of complaints is usually delegated to a licensing officer who is sometimes assisted by a child protection social worker. The medical health officer is given a broad mandate to inquire into all matters concerning the facility, its employees and its guests, including any treatments or programs being carried out in the facility.

The *Victims of Crime Act*

Under this act, children who have been victims of a crime are entitled to receive information which includes:

- victim services available in the child's community;
- compensation under the *Criminal Injury Compensation Act*;
- how the criminal justice system works;
- the status of the police investigation and the court case;
- the administration of the offender's sentence;
- rights to privacy under the *Freedom of Information and Protection of Privacy Act*

Victims of crime will also be given the opportunity to provide the court with information about the effect of the crime. A child may be provided with legal representation upon request to the Attorney General under Section 3 of the act.

The *Family Relations Act*

While this act primarily deals with the determination of rights upon family breakdown, it provides for protection of children through a number of provisions. The *Family Relations Act* gives the court jurisdiction to make orders in relation to child custody, access and guardianship, and specifies that in making any of these orders, the court shall give paramount consideration to the best interests of the child. Section 2 of the act allows the Attorney General to appoint a family advocate who may intervene at any stage of a legal proceeding involving children in order to act as counsel for the interests and welfare of a child. Section 37 and Section 38 allow the court to make restraining orders and orders prohibiting interference with a child where issues of custody and access are before the court.

Part 3 of the act provides for the recognition and enforcement of extraprovincial custody and access orders. Section 45 allows the court to exercise its jurisdiction to make or vary custody or access order over a child from another province and Section 50 allows a B.C. court to supersede a custody order from another province where the court is satisfied that the child would suffer serious harm if he or she were returned to the parent entitled to custody in the other province.

Part 4 of the *Family Relations Act* deals with international child abductions and incorporates the provisions of the Hague Convention to assist in the return of children who have been unlawfully removed from their custodial parent.

Within Canada, under the criminal law, child abduction is dealt with in Section 280 through Section 285 of the *Criminal Code*.

The *Infants Act*

This act provides that children have the right to consent to health care without the necessity of obtaining their parents' or guardians' consent, provided the child has the capacity to give consent to such health care. The act also provides for involvement by the Public Trustee and, in some cases, the court to ensure that the rights of children are protected when they are involved in property issues, contracts, leases and litigation.

The *Office for Children and Youth Act*

This act creates the Office for Children and Youth and the Child and Youth Officer. The Child and Youth Officer is appointed by the Lieutenant Governor in Council and is accountable to the Legislature through the Attorney General.

The Office for Children and Youth provides support to children, youth and their families in obtaining relevant services and to provide independent observations and advice to government about the state of services provided or funded by government to children and youth in British Columbia, including, but not limited to:

- services provided under the *Adoption Act* and the *Child, Family and Community Service Act*
- early childhood development and care services
- mental health services for children and youth
- addiction services for children and youth
- youth justice services
- services for youth and young adults during transition to adulthood.

At the request of the Attorney General, the Child and Youth Officer must undertake an investigation into any matter within the scope of this Act.

The Child and Youth Officer has the right to access any information that is in the custody and control of a public body as defined in the *Freedom of Information and Protection of Privacy Act* where such information is necessary for the performance of their duties. The Officer is also subject to the confidentiality provisions set out in the *Freedom of Information and Protection of Privacy Act* and *Community Service Act*.

The *Criminal Code of Canada*

Whenever a child has been physically or sexually abused, abandoned or neglected, a crime may have been committed. Children who suffer abuse and neglect are also often victims of an offence under the Criminal Code, such as physical and sexual assault, sexual interference, sexual exploitation of a child, and failure to provide the necessities of life. The police are responsible for enforcing the criminal law. On receipt of a report of child abuse or neglect, the police will determine whether there are grounds for a criminal investigation, and will conduct an investigation where such grounds exist.

Generally, criminal investigations involving such matters will be done in cooperation or conjunction with an investigation by a social worker under the *Child, Family and Community Service Act*.

The *Youth Criminal Justice Act*

This act governs the application of the criminal justice system to young people over 12 but under 18 years of age. It establishes a special court known as the youth justice court, which has exclusive jurisdiction over any offence alleged to have been committed by a young person, including any sexual offences that are provided for in the *Criminal Code of Canada*. This act also provides for the disclosure and non-disclosure of youth justice court records (including police records pertaining to youths) and provides for the protection of the identity of young persons charged under this act.

An Order In Council issued under the authority of this act allows a record to be made available, on request, to designated authorities carrying out specific functions and duties related to youth.

The *Privacy Act* (federal)

The purpose of the *Privacy Act* is to protect the privacy of individuals with respect to personal information about themselves held by a federal government institution (including the RCMP and to provide individuals with a right of access to that information.

Section 8 provides that personal information under the control of a government institution shall not be disclosed without the consent of the individual to whom it relates, except in specified situations such as disclosure to specified investigative bodies for the purpose of carrying out lawful investigations or enforcing any law of Canada or a province. Further, the head of a government institution may disclose personal information without the consent of the person where the public interest in the disclosure clearly outweighs any invasion of privacy that could result from the disclosure.

The *Access to Information Act* (federal)

This act provides a right of access to information in records under the control of a federal government institution, in accordance with the principle that government information should be available to the public, that necessary exceptions to the right of access should be limited and specific, and that decisions on disclosure of government information should be reviewed independently of government. This act sets out the necessary exception to a right of access, and includes as exceptions records containing information pertaining to criminal investigations, and records that contain personal information except where permitted by the federal *Privacy Act*.

Appendix D

Summary of Relevant Criminal Code of Offences

SUMMARY OF RELEVANT CRIMINAL CODE OFFENCES

Criminal Code of Canada

Introduction

The *Criminal Code of Canada* provides the key legislative mandate for the justice system response to criminal offences related to abuse and neglect of children. It establishes criminal offences, procedures for investigation and prosecution and sanctions for offenders. Enforcement of the criminal law as it applies to child victims of criminal offences is vital for the protection of children.

While service providers outside the justice system need not become experts on criminal law and procedure related to child abuse and neglect, it is important that people working with and for children, and the public in general, understand that most forms of child abuse, and some forms of neglect, constitute criminal offences.

Physical Abuse of Children

Criminal Code Offences

The *Criminal Code* contains numerous offences related to physical abuse of children, some of which apply to victims of all ages and others that are specific to children, including:

Offence(s)	Section(s)	Offence against
• assault and aggravated assault	265-268	any person
– excision (female genital mutilation)	268(3)	female child under 18
• causing bodily harm with intent	244-244.1	any person
• unlawfully causing bodily harm	269	any person
• administering a noxious thing	245	any person
• criminal negligence	219-221	any person
• murder	229-231	any person
• manslaughter	234	any person
• infanticide	233	child under one year
• killing an unborn child in the act of birth	238	unborn child
• homicide from injury before/during birth	223(2)	child born alive who later dies

Other *Criminal Code* Provisions

- Where a person fears on reasonable grounds that another person will cause personal injury to him/her, his/her spouse or child, the *Criminal Code* (Section 810) provides a process where the court may order that the defendant enter into a "good behaviour" recognizance. A similar process applies where a person fears that another person will commit a serious personal injury offence against any person (Section 810.2).
- Section 43 of the *Criminal Code* – commonly referred to as the corporal punishment defence – excuses certain persons in authority vis-a-vis children (teachers, parents, or person standing in the place of a parent) from using "reasonable force" against a child under their care if such force is used "by way of correction".

Sexual Abuse of Children

Criminal Code Offences

Similar to offences related to physical abuse, the *Criminal Code* contains sexual offences that apply to victims of all ages as well as offences specific to children. In addition, there are significant differences in how offences in the former category apply to sexual activity among adults, between adults and children, and among children.

Offence(s)	Section(s)	Offence against
• sexual interference	151	child under 14
• invitation to sexual touching	152	child under 14
• sexual exploitation (by adult in position of trust or authority)	153	child between 14 & 18
• sexual assault and aggravated sexual assault	271-273	any person – consent no defence when child under 14 with some exception (s.150.1)
• incest	155	any person – excludes from culpability a person who was under restraint, duress or fear
• anal intercourse	159	any person – not offence where it involves consenting adults 18 or over
• beastiality – in presence of or by a child	160 160(3)	any person – child under 14
• indecent acts – exposure (of genitals for sexual purpose)	173 173(2)	any person – child under 14
• corrupting morals (pornography) – child pornography	163 163.1	any person – child under 18
• procuring (prostitution) – person under 18	212 212(2), (2.1), & (4)	any person – child under 18
• procuring sexual activity (by parent/guardian)	170	child under 18
• householder permitting sexual activity	171	child under 18

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Other *Criminal Code* provisions

- Where any person fears, on reasonable grounds, that another person will commit certain sexual offences against children, the *Criminal Code* provides a process where a court may order the defendant to enter into a recognizance prohibiting activities that involve contact with children under 14 and attendance at specified places where children under 14 are likely to be present (Section 810.1).
- To protect children from contact with convicted or accused sex offenders, the *Criminal Code* contains a vagrancy offence (Section 179(l)(b)) that applies to a person who has been convicted of certain sexual offences and, if "found loitering in or near a school ground, playground, public park or bathing area".
- Where a person is convicted of certain sexual offences against children under 14, or is accused of such an offence and released on conditions, the court may impose an order prohibiting the offender from attending certain places where children under 14 are likely to be present or obtaining paid/volunteer employment in a position of trust or authority with respect to children under 14 (Section 161).

Neglect of Children

Criminal Code Offences

While the *Criminal Code* does not establish a specific criminal offence of "child neglect", the criminal law recognizes the responsibility of parent/guardians to provide care and protection for children through several related offences, including:

Offence(s)	Section(s)	Offence against/involving
• failure to provide necessities of life – criminal negligence (re above)	215 219-221	child under 16
• abandoning child	218	child under 10
• neglect to obtain assistance in childbirth	242	child at time of birth
• corrupting children	172	child under 18

Emotional/Psychological Abuse of Children

Criminal Code Offences

The *Criminal Code* does not include specific offences concerning emotional or psychological abuse of children. What it does include are several offences, applicable to victims of all ages, with respect to threatening or intimidating behaviour by others.

Offence(s)	Section(s)	Offence against/involving
• criminal harassment	264	any person
• conveying threats	264.1	any person
• intimidation	423	any person
• making indecent or harassing telephone calls	372	any person
• extortion	346	any person
• culpable homicide (causing death by wilfully frightening)	222(5)	child or sick person

Kidnapping and Abduction of Children

Criminal Code Offences

In addition to the general offences of kidnapping and forcible confinement, the *Criminal Code* establishes several offences specific to abduction of children of different ages and by parents/guardians or others.

Offence(s)	Section(s)	Offence against/involving
• kidnapping and forcible confinement	279	any person
• abduction of person under 14, under 16, by any person	280, 281	child under 14, child under 16
• abduction in contravention of custody order (by parent/guardian)	282(1)	child under 14
• abduction (by parent/guardian)	283	child under 14
• removal of child from Canada (for purpose of committing certain offences against the child)	273.3	different provisions for specified offences against children under 14, 14-18, and under 18

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• removal of child from Canada (for purpose of committing certain offences against the child)	273.3	different provisions for specified offences against children under 14, 14-18, and under 18

Other *Criminal Code* provisions

By virtue of Section 7(4.1) of the *Criminal Code*, sexual offences against children committed outside Canada by Canadian citizens or permanent residents are deemed to have been committed in Canada.

Measures to facilitate child witness testimony

In recognition of the trauma a child may experience from facing the accused in court and giving evidence in a public forum, Section 486 of the *Criminal Code* contains several provisions, subject to the discretion of the court, to facilitate child witness testimony. For example, it includes provisions for a child to testify behind a screen or outside the courtroom by means of closed-circuit television. It prohibits the accused from personally cross-examining the child witness. It makes provision for a publication ban and exclusion of the public from the courtroom. It enables a child witness under 14 to have a support person present and close by while testifying. In addition, Section 715.1 allows for a child witness to give evidence related to a sexual offence by way of videotape.

Related legislation

Other legislation related to the criminal justice system response to child abuse and neglect include the *Canada Evidence Act* (which, among other things, sets out the type of oath a child witness may take), and the *Youth Criminal Jusice Act* and *Victims of Crime Act* (which are summarized in this appendix).

Appendix E

Handling Disclosures

(How Children Tell Us)

Adapted from material in Dealing with Child Abuse: A Handbook for School Personnel. Northwest Territories Department of Education, Culture and Employment, 1995. Used with permission.

HANDLING DISCLOSURES (How Children Tell Us)

1. Disclosure of Abuse

A "disclosure" occurs when a child tells you or lets you know in some other way that he or she has been, or is being abused. Sometimes children will tell you directly that they are being abused. Often they use indirect ways to let you know, for example, drawing pictures about hitting or inappropriate touching, writing about abuse in journal stories or play-acting frightening scenes. These indirect ways may be a child's way of hinting about abuse.

Children may disclose abuse which is ongoing, or abuse which happened weeks, months or years ago, abuse which took place in another location (community or province), or abuse that is happening to someone else. You need to report all disclosures of abuse, no matter where or when they happened.

2. Handling a Disclosure

Listen to disclosures in a caring and calm manner. Let the child tell their story in their own way – don't ask leading questions about the disclosure. Make sure the child knows that you believe them and that what happened to them was not their fault. Let them know that telling someone was the right thing to do and that now you are going to contact the child protection social worker to try to get some help. The child may receive some comfort in hearing that they are not alone and that other children have gone through this. Do not judge the events, circumstances or individuals involved and, don't express to the child what you think they might be feeling, for example, "You must hate him for what he did to you".

When the child has finished what they have to say and has disclosed enough so that you have reason to believe they have been abused, tell the child that you and they need to share this information with a child protection social worker. It is very important that at the end of the disclosure, the child must continue to think that what they have to say is important, and they must feel safe enough so they can relate the complete disclosure to the child protection social worker.

Don't make promises to the child that you have no way of keeping. For example, telling a child that "everything is all right" or "now you will get the help you need" are promises that cannot be guaranteed.

It is the role of the child protection social worker and/or the police to question the child about the details of abuse. They are trained to do this type of interview. They will then be able to document this information firsthand and present it in court if needed. If you question the child for details, it could cause serious problems with the investigation.

Immediately after a disclosure, you should write down and date any comments or statements made by the child during the disclosure. Try to use their exact words. Keep notes about the child's behaviour and emotional state, as well as the circumstances at the time of the disclosure, e.g., "Child stayed at her desk with her face hidden after all the other children went home. She cried for 15 minutes".

Call and make a report of child abuse to a child protection social worker at the Ministry of Children and Family Development.

Maintain confidentiality. Don't discuss the disclosure with other staff members.

Recognize and respect the child's feelings in the days following the disclosure. These may include:

- feelings of guilt for having told;
- fear and anxiety about what will happen next;
- anger or withdrawal, including anger at, or withdrawal from you;
- uncertainty;
- feelings of being blamed;
- a feelings of low self-esteem; and
- feelings of shame.

Be aware of your own feelings about the disclosure.

Practise using non-leading or open questions and comments, as discussed below.

3. Appropriate Questioning: Non-Leading or Open Questions and Comments

Use non-leading, open questions and comments when responding to a child who is disclosing or talking about abuse. This type of questioning doesn't make assumptions about what may have happened to the child. It doesn't put words in the child's mouth. Non-leading questions and comments describe the child's behaviour or condition in a factual way, and open up a chance for the child to respond and describe what has happened.

Examples of non-leading questions and comments:

"Please tell me about what you had to eat this week."

"You look as though things aren't going well."

"Tell me about your home." (In response to a child who says he doesn't want to go home after school because it's not nice there.)

"Tel l me a bit more about that."

4. Avoid: Leading Questions and Comments (Inappropriate Questioning)

Leading questions can often be answered by a "yes" or "no". Avoid leading questions or comments -they direct the child and hint at how the child is to respond. Leading questions or comments often label the child's feelings, threaten their sense of privacy, or put words in the child's mouth. They often make assumptions about what may have happened and don't allow the child to describe what has taken place entirely in their own words. This type of questioning or commenting isn't helpful, as the court will consider the child's evidence to be tainted or spoiled.

Examples of inappropriate questioning (leading questions):

"Has your dad been beating you up at home? How does he hit you?" (In response to a child who says that someone is hurting him.)

'Is someone sexually abusing you?" (In response to a child who says that someone at home is bothering her or him.)

5. Types of Disclosures

Direct disclosures: verbal or written statements by the child.

Indirect disclosures: verbal, written or graphic hints, e.g. journal writing, drawings, art work that appear to be about abuse.

Disclosures with conditions: the child says they will tell you about something that is happening to them only if certain conditions are met.

Disguised disclosures: the child isn't ready to tell you that they are being abused, and so pretends that it is happening to someone else.

Third party disclosures: the child tells you about abuse which is happening to another child.

6. Sample responses to disclosures of child abuse

a. Direct Disclosure – "I am being abused".

Circumstances	Child's Direct Disclosure	Leading Response (wrong)	Non-Leading Response (right)
Teacher wants young child to remove his gloves in school.	"I don't want to. My hands hurt because someone burned me with cigarettes last night. He said I took some money from him."	"This is terrible. Did your dad do this? Has he done this before?"	"May I look at your hands to see if they need taking care of? After we do that, I'll call the social worker to let them know what happened to you. They'll want to talk to you about what happened so that they can try to help you."

b. Indirect Disclosure – "He bothers me."

Circumstances	Child's Direct Disclosure	Leading Response (wrong)	Non-Leading Response (right)
Example 1	"I don't like the way that _____ bugs me all the time."	"Is someone abusing you?"	"What do you mean by bugging you? Do you want to tell me more about that?"
Example 2	"_____ doesn't let me sleep at night."	"Does _____ come into your room and touch you or do things like that?"	"How does _____ disturb your sleep?"
Example 3	"I don't like it when _____ does those things to me."	"Are you talking about being sexually or physically abused?"	"What kind of things don't you like?"

In the above examples, the child might or might not have been talking about abuse. They could have been talking about a brother who plays loud music or plays jokes on them. The leading responses above suggest that abuse has taken place and is not the correct way to respond.

Because there is a possibility that the child is hinting about abuse, the best responses should be open or non-leading. Then the child knows you are listening and has the chance to share more if they want to.

c. Disclosure with Conditions – "You must promise not to tell anyone".

Children will sometimes want to talk about something that is happening to them or to someone else only if certain promises or conditions are met. The child might want you to promise that no one will be told about the secret, that the police or the social worker will not be involved, that the family will not be broken up, and that no one will get into trouble. Don't make these promises. Try to convince the child that the problem cannot be taken care of unless people are allowed to help. If something is happening to the child that is harmful in any way, it's a secret that cannot be kept. You can reassure the child that the social worker and police will do their best to try to keep him or her safe and to prevent the abuse from happening again.

Child's Disclosure with Conditions	Leading Response (wrong)	Non-Leading Response (right)
"I want to tell you something, but you have to promise not to tell anyone else or I'll get into big trouble."	"Is someone in your family abusing you? If so, I'll have to tell the social worker."	"There are some secrets that shouldn't be kept. If I do have to tell someone else, it will be someone who will try to help you."

The child may not be ready to talk about the problem without conditions. For example, they may not want to tell you anything unless you promise not to call the child protection social worker. Let the child know that you are concerned for their safety and will be available if they would like to come back and talk another time. Make a written note of the comments that the child has made up to this point.

If older students have difficulty talking about the problem, suggest that they try writing it down first. Then you could talk together about ways to get help.

6. Sample responses to disclosures of child abuse

a. Direct Disclosure – "I am being abused".

Circumstances	Child's Direct Disclosure	Leading Response (wrong)	Non-Leading Response (right)
Teacher wants young child to remove his gloves in school.	"I don't want to. My hands look horrible. Someone burned me with cigarettes last night. He said I took some money from him."	"This is terrible. Did your dad do this? Has he done this before?"	"May I look at your hands to see if they need taking care of? After we do that, I'll call the social worker to let them know what happened to you. They'll want to talk to you about what happened so that they can try to help you."

b. Indirect Disclosure – "He bothers me."

Circumstances	Child's Direct Disclosure	Leading Response (wrong)	Non-Leading Response (right)
Example 1	"I don't like the way that _____ looks at me all the time."	"Is someone abusing you?"	"What do you mean by bugging you? Do you want to tell me more about that?"
Example 2	"_____ doesn't let me sleep at night."	"Does _____ come into your room and touch you or do things like that?"	"How does _____ disturb your sleep?"
Example 3	"I don't like it when _____ does those things to me."	"Are you talking about being sexually or physically abused?"	"What kind of things don't you like?"

In the above examples, the child might or might not have been talking about abuse. They could have been talking about a brother who plays loud music or plays jokes on them. The leading responses above suggest that abuse has taken place and is not the correct way to respond.

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Child's Disclosure with Conditions	Leading Response (wrong)	Non-Leading Response (right)
"I want to tell you something, but you have to promise not to tell anyone else or I'll get into big trouble."	"Is someone in your family abusing you? If so, I'll have to tell the social worker."	"There are some secrets that shouldn't be kept. If I do have to tell someone else, it will be someone who will try to help you."

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If older students have difficulty talking about the problem, suggest that they try writing it down first. Then you could talk together about ways to get help.

d. Disguised Disclosure – Child Pretending that the Abuse is Happening to Someone Else

"I'm not ready to tell you it's me."

Child's Disguised Disclosure	Leading Response (wrong)	Non-Leading Response (right)
"I have a friend who says that her grandfather hurts her all the time. He gets mad and hits her a lot. She doesn't know what to do."	"Are you trying to tell me that this is really happening to you? Does your grandfather beat you?"	"It's important for your friend to talk to someone who will try to help. Tell her that I'll be available if she wants to come and talk to me. It would be difficult for her to deal with these things by herself. There are other children who have gone through the same thing as your friend, and talking to someone is the first step in trying to get some help.

e. Third Party Disclosure – Child telling about abuse that is happening to someone else

"I know someone who is being abused."

Child's Third Party Disclosure	Leading Response (wrong)	Non-Leading Response (right)
"My friend and I were at a sleep-over, and we were telling secrets. He told me that his uncle has been abusing him since he was four. He says that it has stopped now."	"Is this your friend Jimmy who lives with his uncle Fred?"	"Do you want to tell me your friend's name and anything that he said about this? Your friend trusts you and so he has told you about this. I'm glad that you trust me as well."

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Child's Disguised Disclosure	Leading Response (wrong)	Non-Leading Response (right)
"I have a friend who says that her grandfather hurts her all the time. He gets mad and hits her a lot. She doesn't know what to do."	"Are you trying to tell me that this is really happening to you? Does your grandfather beat you?"	"It's important for your friend to talk to someone who will try to help. Tell her that I'll be available if she wants to come and talk to me. It would be difficult for her to deal with these things by herself. There are other children who have gone through the same thing as your friend, and talking to someone is the first step in trying to get some help.

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If possible, get the name of the child involved and report to a child protection social worker immediately. Don't try to get more details about what happened or to talk to the child who was named.

7. Questions and Answers

I have recently received a couple of 'family picture' drawings from a child, in which one person is always scribbled over and has both hands missing. This is unusual for this child. What should I do?

If you have reason to believe the child is being abused, report your concerns to a child protection social worker. If you need a little more information, ask the child to tell you about the pictures.

A student disclosed that a neighbour had abused him. What should I do?

A collaborative approach to responding to the abuse is the best response. Talk to the child and parent to find out if they need help keeping the child safe and to protect from further abuse happening. The family may also need support in dealing with the abuse. Many children and families in these types of situations are appreciative of and benefit from supportive and voluntary intervention of community services.

Although a report to the Ministry of Children and Family Development is not required, you may wish to consult with a ministry worker who may be able to assist. The ministry worker may be able to provide information or referrals to community services available to the child, youth and family.

If the child has been physically harmed or sexually abused or exploited, you or the parent should report the matter to the police. The police can play an important role in keeping the child and other vulnerable children safe within their families and community.

A child in my class made a disclosure of abuse to me. Can I remain with her for support during her interview with the child protection social worker?

If a child asks you to go with them to the interview, you may. Children are encouraged to take a support person with them. The support person is there to help reduce the child's anxiety and to make sure they understand what is happening and what is being said. The support person may not take notes or participate in interviewing the child. (Anything written during the interview could be subpoenaed and provided to the lawyer defending the alleged abuser.)

If a child is in the care of the Ministry of Children and Family Development, the child protection social worker can veto the child's choice of support person when they feel it is not in the best interests of the child. A support person may be subpoenaed as a witness if the case goes to court.

Appendix F

Guidelines for Hospitals

GUIDELINES FOR HOSPITALS

Preamble

The following guidelines are intended to provide a guide for hospitals and their personnel, but it is emphasized that responsibility for making a report rests with the person who has reason to believe a child has been or is likely to be abused or neglected or needs protection.

In a hospital environment, a coordinated system is needed for reporting, because of the number of individuals likely to be involved in the care and protection of the child. It is the legal responsibility of the individual having knowledge of possible child abuse or neglect or protection needs to ensure that it is reported to the appropriate child protection social worker. This legal responsibility over-rides professional obligations of confidentiality to the patient, family, employer or other third party.

Hospitals' Accountability:

- identification – the child may be an inpatient, emergency patient or ambulatory care patient;
- diagnosis and documentation;
- provision of a safe environment while medical investigation and assessment is taking place;
- development of a management plan in consultation with a child protection social worker from the Ministry of Children and Family Development; and,
- follow-up and review.

In addition the hospital, together with its medical staff or SCAN (suspected child abuse and neglect) team, can provide a comprehensive consultative service to the Ministry of Children and Family Development, particularly where medical and psychiatric issues are of importance in the management of the abused child.

Protocol

Each hospital must develop a protocol for the identification, assessment and management of abused children. It is recognized that not all hospitals will have the full range of resources necessary for complete management and assessment of child abuse cases and that, in some instances, referral to a larger and more comprehensive centre is advisable.

Hospital protocols should include:

- administrative and board responsibility;
- medical staff roles and responsibilities;
- patient care staff roles and responsibilities (e.g. nursing, social work, physio and occupational therapy, child life, psychology, nutrition, housekeeping);
- a hospital mechanism for reporting to the Ministry of Children and Family Development and ensuring compliance in reporting by hospital staff;
- procedures which support investigations by child protection social workers and law enforcement agencies.

It is emphasized that the statutory responsibility for the protection of children rests with the Ministry of Children and Family Development, and responsibility for legal investigation rests with the police. The hospital and medical staff have a responsibility for the medical care and management of the child, and to cooperate with the Ministry of Children and Family Development and the police, but it is not their role to perform legal investigations or to obtain disclosure statements, etc. A partial exception would occur in a case where it is mutually agreed by all concerned that it is in the best interests of the child to conduct a joint meeting rather than to subject the child to repeated interviews.

The protocol will include formal mechanisms for handling cases of actual and suspected child abuse or neglect through:

- the designation of an individual or group of individuals as the responsible agent for dealing with such cases;
- the development and implementation of procedures to be followed by hospital personnel; and,
- the development and maintenance of clear lines of communication and responsibility with the other agencies involved, both in the immediate community, and with referral institutions elsewhere.

The extent to which each hospital can meet the needs for diagnosis and treatment of the child will vary in accordance with resources, particularly human resources available to assist hospitals in determining the level in their individual circumstances. These guidelines are divided into four levels:

Level 1: Small community hospitals with no social worker on staff.

Level 2: Hospitals with at least one social worker.

Level 3: Hospitals with social workers and two or more pediatricians (e.g. those hospitals with organized pediatric units and departments).

Level 4: Large referral hospitals with an array of child health services, such as specialized child social workers and at least one pediatrician with a special interest in child abuse cases.

Some hospitals will not fit neatly into any of the above categories, and so should choose those elements which suit their circumstances.

Team Composition

Level 1:

- A responsible individual, preferably a health professional such as a nurse, who has some experience in child health care and a knowledge of the local community agencies, who would be involved in the investigation and management of (suspected) child abuse cases.
- A physician should be involved in the setting up of policies and procedures and in the handling of cases.
- The attending physician or family physician of the child should be a member of the team when an individual case is being dealt with.
- A representative of the local office of the Ministry of Children and Family Development should also be a member, wherever possible, and/or a police officer or an RCMP officer.

Level 2:

- A member of the social work department.
- A member of the medical staff.
- The head nurse of the pediatric unit or a nurse with equivalent authority and/or experience.
- The attending physician and/or the family physician of the child.
- A representative of the local office of the Ministry of Children and Family Development should also be a member wherever possible and/or a police officer or an RCMP officer.

Levels 3 and 4:

- A member of the social work department responsible for the pediatric unit.
- A member of the pediatric unit of the medical staff.
- The attending physician and/or family physician of the child.
- The head nurse of the pediatric unit.
- A representative of the local office of the Ministry of Children and Family Development and/or a police officer or RCMP officer.

Additional members may be added to the team as appropriate (e.g. the local community health nurse, or a member of the local police force/RCMP). Members of the team should, where possible, keep a colleague well informed of the work of the team in order that there may be a reasonable alternate available when the team member is not available.

Purpose of the Team

- To ensure the provision of appropriate services to children and families through clinical diagnosis and case management. In the case of Level 1 and 2 institutions, the provision of such care will often involve the referral or transfer of the child to a higher level facility with more specialized services. In the case of Level 3 and 4 facilities, this will include the acceptance of referrals from smaller institutions and the provision of advice on the management cases.
- To provide consultation/support to other professionals who are not specialized in handling cases of suspected child abuse and/or neglect. Again, in the case of Level 1 and 2 institutions, such advice and support is often likely to be by means of referral procedures rather than specialized clinical assistance and support.
- To provide assistance to Ministry of Children and Family Development staff who are responsible for actions taken under the *Child, Family and Community Service Act*.
- To identify gaps in services and to participate in long-term planning for child abuse services and cooperation with other community agencies. In cases where the physician of the abused child is also the physician of the (suspected) abuser, the doctor will have to consider where his/her primary duty lies. The abuser will also require support, and it may be appropriate for the doctor to stay with the child abuse team that is dealing with the case, passing the duties of attending physician over to a colleague, and acting solely as the physician of the abuser.

Functions of the Team

- To develop a plan for the hospital with policies and procedures for the handling of suspected or actual cases of child abuse and/or neglect, updating this as necessary.
- To develop and maintain, with local Ministry of Children and Family Development officials, a community-wide plan for the management of cases.
- To provide education and consultation to physicians, hospital staff and the community.
- To ensure that cases identified in the hospital are reported to the local Ministry of Children and Family Development office.

The following functions will be carried out to some degree by teams in all levels of institutions, but in full only by Levels 3 and 4:

- To gather and collate data needed to make a medical assessment.
- To meet regularly to discuss referred cases with appropriate hospital and community personnel.
- To formulate plans with other agencies for family treatment.
- To provide consultation and support for those preparing for court hearings.
- To help support the family through the diagnostic/assessment process.

In Level 1, 2 and 3, it is likely that the team or one of its members may be designated as spokesperson for the hospital when questions are raised by the public or the media concerning a specific case. In Level 4 facilities, there may well be a public relations office to handle this aspect.

Relationships With Other Organizations

It is emphasized that the purpose of the team is not to replace or duplicate the work of the RCMP or the Ministry of Children and Family Development. Its function in fulfilling the hospital's responsibilities in cases of child abuse can be greatly strengthened by a well coordinated and smooth working relationship between the various parties involved. Such a system is also likely to provide quicker and more effective treatment and care for the child and the family.

In cooperating with these agencies, questions often arise concerning confidentiality and liability. As clearly stated in the *Child, Family and Community Service Act*, the notification of known or suspected cases of child abuse is a legal requirement which over-rides the usual duty of confidentiality between a health professional and a patient. It follows that information known about the child and relevant to the case can also be

released to the investigating agencies, and indeed, should be provided on request, without fear of liability. Such sharing of information is not only helpful in establishing the basis of evidence for a charge of child abuse, but can save the child the stress of multiple interviews. It may be noted that the flow of information in the hospital's child abuse team is not one-way, and that the non-hospital members, such as the police officer, social worker or community health nurse, may often be able to provide staff with facts which make interpretation of the clinical evidence more obvious, or may help in focusing the direction of diagnosis and treatment.

Roles and Responsibility of Team Members

Ministry of Children and Family Development

- To represent the ministry in broad terms, e.g. statutory regulations, services available, etc., and to liaise between the hospital and the local ministry office.
- To help in the development of plans for useful and realistic community services.

Nursing

- To foster awareness among the nursing staff, particularly in the emergency and pediatric departments, of the signs of possible child abuse in order that detection of cases is made as early as possible.
- To maintain close communication with the social worker and the physician in the handling of a case.
- To ensure that there is careful and complete recording of physical injuries and changes in such injuries (or their appearance) while a patient is in the hospital, whether as an inpatient or an outpatient.
- To ensure close observation and documentation of the child's behaviour with staff, parents and visitors, and the parents' attitude towards the child and each other.

Physicians

- To act as liaison between the team and other medical staff members, both in the development of protocols and in the handling of individual cases.
- To provide (if appropriately trained and experienced) a second opinion on particular cases.

Physicians who may be involved in the diagnosis, treatment and care of abused children must be fully familiar with *Indicators of Possible Abuse or Neglect: The Role of the Physician in Incidents of Child Abuse and Sexual Abuse of Children – Protocol for Communication between Staff of the Ministry of Children and Family Development and Physicians.*

Social Worker

In outlining these functions, the responsibilities that could reasonably be expected of hospital members of teams in Level 1 facilities are asterisked (*).

- To prepare psycho-social assessment of family functioning and home safety as soon as possible after the admission of a suspected or actual case to emergency or pediatrics.
- To gather relevant information from social and public health agencies regarding a child and family (*in conjunction with the Ministry of Children and Family Development representative).
- To collate the information gathered with the observations of doctors and nurses (*).
- To notify the family doctor and, in conjunction with him/her, determine the need for further discussions with the team.
- To communicate and maintain contact with community resources (*).
- To maintain a registry on all identified/ suspected cases of child abuse or neglect.
- To advise the local office of the Ministry of Children and Family Development (*).
- To coordinate the setting up of community case conferences (*).
- To maintain an "at risk" file on children under 16 who present in the emergency department or pediatrics (*).

All team members are expected to contribute their skills and knowledge in case management and in the education of other professionals and the public.

Specific Departments

Some departments are more likely to be involved in the investigation and/ or treatment of child abuse cases than others. Apart from the pediatric unit, these include the emergency department, psychiatric and psychological services, and the laboratory. In all departments, documentation is of the utmost importance, since such evidence is often crucial in establishing proof of abuse in the courts.

Emergency Department

It is in the emergency department that many cases of child abuse are first seen. The signs and symptoms are covered in detail in the *Handbook – Part Two*. The staff of the emergency department are best placed to observe the reactions of the child and the accompanying adult in the acute situation, often when the abuse has been freshly committed. For example, it is important to interview the child alone and with the accompanying adult(s), and to observe the interactions and the variation in the versions of events.

While some parents are upset to the point of partial incoherence by an injury to their child, this is usually easily distinguished from the vagueness and/or aggression by the child abuser.

Aside from the opportunity to observe the adult and the child (and their interaction) first-hand, the staff are also well placed to notice a pattern of visits to the department which may indicate non-accidental causes of injury. Such patterns of repeat visits, while not diagnostic, should create a heightened index of suspicion, and hence, a more scrupulous search for specific signs and behaviour. In regions where there is only one emergency department, the outpatient/emergency record itself will show the pattern of visits. In places where more than one source of hospital care is available, the pattern of utilization will require specific inquiry, and possibly follow-up and investigation if the history is unclear or suspicious. Inter-hospital cooperation in selected cases is encouraged.

Documentation in the emergency department is of particular importance in clearly establishing the grounds upon which the suspicion of abuse was based, and the evidence gathered at a time when the abuse was 'fresh'. This is particularly important in cases of sexual abuse. Some hospitals will have their own kits to handle the collection of specimens, etc. Those that do not may be able to obtain a Sexual Assault Kit from the local detachment of the RCMP. This kit is intended for use only in cases of recent sexual assault, and is very comprehensive. Hospitals without their own kit and located in areas not served by a detachment of the RCMP should create their own kit. Assistance in this is obtainable from larger hospitals with their own sexual assault/rape kits.

The taking of (colour) photographs in these cases is of great assistance if the case goes to court. Lay judges and juries have difficulty understanding medical terminology, and the use of photographs is encouraged.

In a busy emergency room, a dedicated child abuse assessment team may be better able to fulfill the above functions.

Psychiatric and Psychological Services

Children who have been subjected to mild forms of physical abuse, or to non-physical abuse/neglect, are not likely to be detected through visits to the emergency department for physical examination. They are more likely to present with behavioural or psychological problems, and hence, first come to the attention of a hospital program through the above services. Staff in these departments should have a high index of suspicion of abuse as a possible cause of signs and symptoms. As in the case of the emergency department, great importance is attached to completing an accurate documentation in the child's health record.

Aside from this diagnostic function, staff will be involved in the care and therapy of children who have been abused. As psychological and

psychiatric serves are only likely to be available in larger institutions, such centres must be prepared to accept referrals from smaller institutions and to provide help in the form of education and training, as well as consultation to staff from smaller centres.

Laboratory Services

In seeking to prove a charge of child abuse/neglect, the chain of evidence which uses laboratory results is vulnerable to allegations of mislabelled specimens and improper procedures being used. The laboratory services should draw up, in consultation with other relevant departments, strict protocols to be followed in the collection, labelling and handling of specimens collected from children in which the possibility of abuse is being considered. This is particularly important in the case of specimens which need to be sent to laboratories outside the hospital of analysis, e.g. forensic studies. Laboratory staff should develop with the referral laboratories a clear record of the specimens, and how they were transported. Help in developing such protocols should be available from the staff of the referral laboratories and the RCMP/police who are familiar with this type of case. Laboratory staff should be closely involved in the development of the hospital's Sexual Assault Kit (see the section on the emergency department).

Liability and Confidentiality

Liability

Cooperating with outside agencies, especially in situations where legal action is likely to be involved, often raises questions of the liability of hospital staff, and of the legal status of hospital information, i.e. confidentiality issues. The requirement to report suspected child abuse/neglect and/or protection needs is absolute (see page 1) and, in most circumstances, the identity of the reporter will not be revealed without consent unless the child protection social worker is required to give the reporter's name for the purposes of a court hearing.

Other areas where liability is often considered include the taking of blood and other specimens, either from the child or from the person suspected or known to have committed the abuse. In these situations, the normal requirements to obtain consent, either from the individual or, if a child, from the parent or guardian, apply. Under such circumstances, i.e. a valid consent has been obtained, the staff member is safe from charges of assault.

Confidentiality

The issue of the confidentiality of the hospital's health records is also sometimes raised as a reason for not cooperating to the fullest extent in sharing information with the RCMP/police. As discussed in the section on relationships with other organizations, information concerning the abused patient may safely be given to the agencies charged with investigating the

case – Ministry of Children and Family Development and the RCMP/police – provided, of course, that it relates to the abuse. Indeed, release of such information on request is a requirement.

General

The attention of all team members is directed to the *B.C. Handbook for Action on Child Abuse and Neglect*, particularly the section on recognizing indicators of possible abuse and neglect. The handbook is of no value if cases are not recognized and reported.

Appendix G

Protocol for Communication Between Staff of Ministry of Children and Family Development and Physicians

Please note that this protocol is currently under review and has not been included in this handbook. To obtain the most up to date protocol information please contact the Ministry of Children and Family Development.

Appendix H

GLOSSARY

GLOSSARY

The following definitions will be of use to those who respond to child abuse and neglect.

aboriginal child

A child who:

- is registered under the *Indian Act* (federal); has a biological parent who is registered under the Indian Act (federal);
- is under 12 years of age and has a biological parent who is of aboriginal ancestry and considers himself or herself to be aboriginal;
- is 12 years of age or over, of aboriginal ancestry and considers himself of herself to be aboriginal.
- is a Nisga'a child.

accused

A person charged with a criminal offence.

advocacy

An action in support of others, to try to ensure that their needs are met and/or their rights respected. It includes assisting children and families, or acting on their behalf, to obtain information, communicate their view and be heard.

child

A person under 19 years of age.

child in care

A child who is in the custody, care or guardianship of the director under the *Child, Family and Community Service Act* or the director under the *Adoption Act*.

child neglect

Child neglect involves an act of omission on the part of the parent or guardian that results or is likely to result in physical harm to the child. It generally refers to situations in which a child has been, or is likely to be physically harmed through action or inaction by those responsible for care of the child. This may include failure to provide food, shelter, basic health care or supervision and, protection from risks, to the extent that the child's physical health, development or safety is harmed or likely to be harmed. This also includes failure to thrive. Not always intentional, neglect may be a result of insufficient resources or other factors beyond a person's control.

child protection

A specialized child welfare service legally responsible for investigating suspected cases of child abuse and neglect and for intervening to protect the child in substantiated cases. Child protection services are child-centered, focusing on health, safety and best interests of the child while providing or arranging for services which address the situations giving rise to a child's need for protection.

child protection social worker

A person who has been delegated with any or all of the relevant powers, duties or functions of a director under the *Child, Family and Community Service Act*.

child with capacity

Generally refers to a child who is able to understand information and make decisions about his or her requirements. Capacity is often assessed by considering:

- the child's age;
- the child's developmental level and maturity;
- the nature and complexity of the information and the decision required;
- the child's ability to understand and evaluate the consequences of the decisions.

These considerations are strongly linked with each other and must be considered together.

collaboration

Collaboration occurs when two or more individuals jointly develop and/or agree to a set of common goals to guide the actions. They share responsibility for using the expertise of each collaborator to address the child's needs and to promote the child's best interests.

community

A geographic place (a community of place), or a group of people who share a common interest (a community of interest). Both interpretations are used in the handbook.

criminal offence

An offence under the *Criminal Code of Canada* and includes an offence under the *Youth Criminal Justice Act*.

director

person designated by the Minister of Children and Family Development under the *Child, Family and Community Service Act*. The director may delegate any or all of the director's powers, duties and responsibilities under the act.

emotional abuse

Emotional abuse is the most difficult type of abuse to define and recognize. It may range from habitual humiliation of the child to withholding lifesustaining nurturing. It can include acts or omissions by those responsible for the care of a child or others in contact with a child, which are likely to have serious, negative emotional impacts. Emotional abuse may occur separately from, or along with, other forms of abuse and neglect.

Emotional abuse can include a pattern of:

- scapegoating;
- rejection;
- verbal attacks on the child;
- threats;
- insults; or
- humiliation.

emotional harm

When emotional abuse is persistent and chronic, this can result in emotional damage to the child. A child is defined by the *Child, Family and Community Service Act* as emotionally harmed if they demonstrate severe:

- anxiety;
- depression;
- withdrawal; or
- self-destructive or aggressive behaviour.

failure to thrive

A serious medical condition most often seen in children under one year of age. A failure-to-thrive child's height, weight, and motor development fall significantly short of the average growth rates of normal children. In about 10% of failure-to-thrive children, there is an organic cause such as serious heart, kidney or intestinal disease, a genetic error of metabolism or brain damage. All other cases are a result of a disturbed parent-child relationship with severe physical and emotional neglect of the child.

maltreatment

Actions that are abusive, neglectful or otherwise threatening to a child's welfare. Frequently used as a general term for child abuse and neglect.

offender

A person who has been convicted of a criminal offence.

organized abuse

This generally refers to abuse of more than one person by one or more perpetrators. Examples include child pornography rings, organized sexual exploitation of children, and multi-victim abuse. Ritual abuse is a highly sophisticated form of organized abuse involving a combination of severe emotional, physical and sexual abuse where control may also be gained through the use of torture, forced perpetration, mind control techniques and religious symbolism. It is generally linked to criminal activities, including child pornography and drug dealing.

parent

The mother of a child, the father of a child, a person to whom custody of a child has been granted by a court of competent jurisdiction or by an agreement, or a person with whom a child resides and who stands in the place of the child's parent. This includes a child's guardian. It does not include the director under the *Child, Family and Community Service Act*.

physical abuse

Physical abuse is a deliberate, non-accidental physical assault or action by an adult or significantly older or more powerful child that results or is likely to result in physical harm to a child. It includes the use of unreasonable force to discipline a child or to prevent a child from harming him/herself or others. The injuries sustained by the child may vary in severity and range from minor bruising, burns, welts or bite marks to major fractures of the bones or skull, and in its most extreme form, the death of a child.

probation officer

A person appointed under the *Corrections Act* who is responsible for carrying out the duties and responsibilities established under Section 5 of that act and under Section 721 of the Criminal Code, and includes a youth worker defined in the *Youth Criminal Justice Act* (federal).

public body

Under the *Freedom of Information and Protection of Privacy Act*, are defined to include:

- provincial government ministries;
- crown corporations;
- municipalities;
- educational bodies; and
- healthcare bodies.

removal

When a child is taken into the care of the director under the *Child, Family and Community Service Act*.

risk assessment

Involves using specialized instruments to evaluate the likelihood that a parent will harm a child in the near future. The product of a risk assessment is an educated prediction concerning the likelihood that a child will need protection. It is based on a careful examination of the factors identified through research as the most likely related to reoccurrence.

service provider

Any person who works directly with children and/or families. This includes:

- those who are directly employed by the government;
- those who volunteer their services;
- those who are employed by agencies that are funded under a contractual agreement with government;
- all professionals who may be publicly funded (e.g., police, educators, post secondary staff, physicians, nurses).

sexual abuse

Sexual abuse generally means any sexual use of a child by an adult or a significantly older or more powerful child. There are many criminal offences related to sexual activity involving children. The Criminal Code prohibits:

- any sexual activity between an adult and a child under the age of 14 – a, child under 14 is incapable in law of consenting to sexual activity (s. 150.1 of the Criminal Code). The criminal law recognizes that consensual "peer sex" is not an offence in the following situation: if one child is between 12 and 14 years and the other is 12 years or more but under the age of 16, less than two years older, and not in a position of trust or authority to the other.
- any sexual activity between an adult in a position of trust or authority towards a child between the ages of 14 and 18 years
- any sexual activity without the consent of a child of any age. (Depending on the activity, non-consensual sexual activity may constitute the criminal offence of sexual assault.)
- use of children in prostitution and pornography.

The Ministry of Children and Family Development states that sexual abuse is any behaviour of a sexual nature toward a child, including one or more of the following:

- touching or invitation to touch for sexual purposes, or intercourse (vaginal or anal)
- menacing or threatening sexual acts, obscene gestures, obscene communications or stalking
- sexual references to the child's body or behaviour by words or gestures
- requests that the child expose their body for sexual purposes
- deliberate exposure of the child to sexual activity or material.

The Ministry of Children and Family Development states sexual exploitation includes permitting, encouraging or requiring a child to engage in:

- conduct of a sexual nature for the stimulation, gratification, profit or self-interest of another person who is in a position of trust or authority, or with whom the child is in a relationship of dependency
- prostitution
- production of material of a pornographic nature.

Sexual aspects of organized or ritual abuse should be considered a form of sexual exploitation.

suspect

A person suspected of having committed, a criminal offence.

take charge

To take charge of a child means to take physical control of a child for a limited period of time. *The Child, Family and Community Service Act* authorizes a director or a police officer to take charge of a child under certain circumstances, such as when a child is in immediate danger.

Queen's Printer for British Columbia©
Victoria, 2003

Queen's Printer for British Columbia©
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978.CP.CP.55 02/98

58M MR 2804